



Los Angeles County  
Department of Regional Planning

*Planning for the Challenges Ahead*



Richard J. Bruckner  
Director

November 29, 2011

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**MARINA DEL REY LOCAL COASTAL PROGRAM AMENDMENT  
PROJECT NUMBER R2009-02277-(4)  
ADVANCE PLANNING CASE NUMBER 200900014  
(FOURTH SUPERVISORIAL DISTRICT) (3 VOTES)**

**SUBJECT**

On March 15, 2011, the Los Angeles County Board of Supervisors approved a proposed major amendment to the Marina del Rey Local Coastal Program (LCP). This amendment was submitted to the California Coastal Commission (Commission) on March 30, 2011, and on November 3, 2011, the Commission approved the proposed amendment with modifications. The County received the Commission's resolution of certification and suggested modifications on November 21, 2011.

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Acknowledge receipt of the Commission's resolution of certification, including the terms or modifications suggested by the Commission; accepting and agreeing to the Commission's approval of the LCP Amendment to the Marina del Rey LCP, including, without reservation, all suggested modifications in the Commission's resolution of certification; and agreeing to issue coastal development permits for the total area included in the certified LCP;
2. Certify the intent to carry out the amended LCP, including all terms or modifications suggested by the Commission, in full conformity with the California Coastal Act;
3. Indicate the intent to adopt the proposed Marina del Rey LCP amendment, including, without reservation, all suggested modifications in the Commission's resolution of certification;

4. Instruct County Counsel to prepare the final LCP documents with all suggested modifications in the Commission's resolution of certification to bring back to your Board at a future meeting for formal adoption; and
5. Instruct the County Department of Regional Planning, upon execution of this Resolution, to transmit the Resolution to the Commission, and upon final adoption of the amended LCP by your Board to transmit an electronic copy of such amended LCP to the Commission.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The proposed amendments implement Board policy and will help keep Marina del Rey a vibrant community while addressing such issues as open space enhancement, public parking, and Important Biological Resources (IBRs).

The modifications suggested by the Coastal Commission would add additional policies to the LCP that will provide further protections for boaters, the Marina waters, and IBR's.

The Commission found that the proposed amendments, with modifications, are consistent with the policies of the Coastal Act.

#### **Implementation of Strategic Plan Goals**

This project approval promotes the County's Strategic Plan goals of Fiscal Responsibility and Improving the Quality of Life. The amendment will help ensure that the Marina maintains its role as a source of revenue for the County while at the same time increasing recreational opportunities and coastal access for County residents.

#### **FISCAL IMPACT/FINANCING**

Implementation of this amendment to the LCP should not result in any new significant costs to the County or to the Department of Regional Planning; no request for financing is being made.

#### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The amendment to the Marina del Rey LCP was submitted to the California Coastal Commission for certification on March 30, 2011. On November 3, 2011, the Commission held a duly noticed public hearing to consider the staff recommendation of approval on the proposed amendment in Oceanside, California. Members of the public spoke both in favor of and against the proposed amendment, and organized presentations were given by the County, the Boating Coalition, the Ballona Institute, We Are Marina del Rey, and the Pipeline Project lessees. After extensive deliberations, the Commission voted to deny the proposed amendment as submitted, and then to approve the amendment if suggested modifications as set forth in the staff report and proposed by the Commission staff and Commissioners at the hearing were incorporated. The amendment with modifications was approved by a vote of 11-1.

**The Honorable Board of Supervisors**

**November 29, 2011**

**Page 3**

On November 17, 2011, the County received the resolution of certification and suggested modifications from the Commission. Under the Coastal Act and Coastal Commission Regulations, the Board of Supervisors must accept the modifications within 180 days of the County's receipt of the Commission's resolution and suggested modifications, or the approval will expire.

If your Board agrees with the suggested modifications, it must adopt a resolution acknowledging receipt of an agreement with them. At that time, the resolution is forwarded by the County to the Executive Director of the Coastal Commission, who reports to the Commission at a regularly scheduled meeting the County's acceptance of the suggested modifications and the Executive Director's intent to certify the amendment as final. If the Commission does not dispute the County's acceptance of the modifications, a letter is then sent back to the County, from the Executive Director of the Coastal Commission, authorizing the County to once again begin issuing Coastal Development Permits in accordance with the amendment.

**ENVIRONMENTAL DOCUMENTATION**

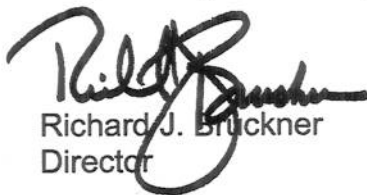
The California Environmental Quality Act (CEQA) and Sections 30500 through 30522 of the Public Resources Code provide that the process of preparing an LCP, and amendments thereto, is functionally equivalent to the preparation of an Environmental Impact Report (EIR). Therefore, the County is not required to conduct an environmental assessment or prepare a CEQA document for this project.

Individual development projects are not functionally equivalent to, or exempt from CEQA requirements; development projects shall be required to undergo complete CEQA review which can and may include a full EIR.

**IMPACT ON CURRENT SERVICES**

Action on the proposed LCP amendment is not anticipated to have an impact on current services.

Respectfully submitted,



Richard J. Bruckner  
Director

SZD:mrt

Attachments: Coastal Commission Resolution and Suggested Modifications

c: Executive Office, Board of Supervisors  
Chief Executive Office  
County Counsel

**A RESOLUTION OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF LOS ANGELES  
ACKNOWLEDGING AND ACCEPTING THE SUGGESTED MODIFICATIONS  
APPROVED BY THE CALIFORNIA COASTAL COMMISSION, MARINA DEL REY  
LOCAL COASTAL PROGRAM**

**WHEREAS**, on March 30, 2011, the County of Los Angeles ("County") Board of Supervisors ("Board") submitted to the California Coastal Commission ("Commission") for its consideration and approval a major amendment (No. 01-11) ("Amendment") to the Marina del Rey certified Local Coastal Program ("LCP"); and

**WHEREAS**, on November 3, 2011, at a duly-noticed public hearing, the Commission considered and approved the LCP Amendment with suggested modifications as set forth at the public hearing; and

**WHEREAS**, the Board has received the Commission's resolution of certification together with the Commission's suggested modifications; and

**WHEREAS**, section 13544 of the Commission's Regulations (California Code of Regulations Title 14, Division 5.5) requires the governing body of the local government to acknowledge receipt of the Commission's resolution of certification including any terms or modifications which may have been suggested; to consider whether to accept and agree to these terms or modifications; and to consider whether to agree to issue coastal development permits for the total area included in the certified LCP; and

**WHEREAS**, the Board has reviewed the Commission's resolution of certification including the suggested modifications.

**THEREFORE, BE IT RESOLVED THAT THE BOARD OF SUPERVISORS:**

1. Acknowledges receipt of the Commission's resolution of certification, including the terms or modifications suggested by the Commission; accepts and agrees to the Commission's approval of the LCP Amendment to the Marina del Rey LCP, including, without reservation, all suggested modifications in the Commission's resolution of certification; and agrees to issue coastal development permits for the total area included in the certified LCP;
2. Certifies its intent to carry out the amended LCP, including all terms or modifications suggested by the Commission, in full conformity with the California Coastal Act;
3. Indicates its intent to adopt the proposed Marina del Rey LCP Amendment, including, without reservation, all suggested modifications in the Commission's resolution of certification;
4. Instructs County Counsel to prepare the final LCP documents with all suggested modifications in the Commission's resolution of certification to bring back to the Board at a future meeting for formal adoption; and

5. Instructs the County Department of Regional Planning upon execution of this Resolution to transmit the Resolution to the Commission, and upon final adoption of the amended LCP by the Board to transmit an electronic copy of such amended LCP to the Commission.

The foregoing resolution was on the 29th day of NOVEMBER, 2011, adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies, and authorities for which said Board also acts.



SACHI A. HAMAI, Executive Officer-  
Clerk of the Board of Supervisors of  
the County of Los Angeles

By *[Signature]*  
Deputy

APPROVED AS TO FORM:

ANDREA SHERIDAN ORDIN  
County Counsel

By *[Signature]*  
Deputy



## **Los Angeles County Marina del Rey Local Coastal Program Amendment 1-11 Suggested Modifications as approved by the Commission on November 3, 2011**

Note: Text proposed to be added by the County is identified by single underlined text. Text proposed to be deleted by the County is identified by single ~~striketrough text~~. Text added by the suggested modification is identified by double **underlined bold text**, and text suggested to be deleted by the Commission is double ~~striketrough text~~. Only those specific subsections of the LCP for which modifications are being suggested are shown below.

Organizational Notes: The addition of new policies or the deletion of policies (as submitted or modified by the Commission) will affect the numbering of subsequent LCP (Land Use Plan and Implementation Plan) policies when the County publishes the final LCP incorporating the Commission's suggested modifications. The County will make modifications to the numbering system when it prepares the final LCP for submission to the Commission for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

### **A. LUP Map Changes**

#### **Suggested Modification 1**

Modify Map 8, Land Use Plan, as follows:

- a. Designate Parcel 9 as H (Hotel) and OS (Open Space)
- b. Delineate boundaries of Parcel 45 and designate as OS (Open Space)
- c. Delete on Parcel 49R designation VS/CC (Visitor-Serving/Convenience Commercial), leaving the entire Parcel as B (Boat Storage)
- d. Change Parcel 77 designation from PF (Public Facilities) to OS (Open Space)

Modify Map 11, Proposed Development Zone 1, as follows:

- a. Designate Parcel 9 as H (Hotel) and OS (Open Space)

Modify Map 13, Proposed Development Zone 3, as follows:

- a. Delineate boundaries of Parcel 45 and designate as OS (Open Space)
- b. Change Parcel 77 designation from PF (Public Facilities) to OS (Open Space)

- c. Delete on Parcel 49R designation VS/CC (Visitor-Serving/Convenience Commercial), leaving the entire Parcel as B (Boat Storage)

## **Suggested Modification 2**

LUP – County shall reconcile all maps consistent with the Suggested Modifications.

## **B. LUP Text Changes**

### **Definitions**

#### **Suggested Modification 3**

On Page vii, add the following:

**Open Space: means recreational uses including open viewing areas, promenades, plazas, commons, natural resources parks, bikeways, beaches, active parks, picnic facilities, nature/interpretive centers, associated surface parking and landscaping. Map 9 depicts the open space plan. The open space plan is intended to provide for three types of open spaces, defined as follows:**

**a. Active—parks, playgrounds, view parks and beaches**

**b. Passive—** Areas that require minimal or no development that is subordinate to the natural environment and are designed for the enjoyment of the marine and natural resources of Marina del Rey.

**c. Urban—plazas, commons, amphitheatres, and gathering areas not associated with commercial or other uses and available for the enjoyment of the general public but which may be associated with a commercial or other development or a parking structure.**

#### **Suggested Modification 4**

### **Wetland**

**Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater**

**marshes, open or closed brackish water marshes, swamps, mudflats, and fens.**

## **Shoreline Access**

### **Suggested Modification 5**

On page 1-4

3. Public (County) property, which is open to the public –

The nearly 3 miles adjoining the north jetty, south jetty, Marina the bBeach, portions of basins D, E, H, Palawan Way (a perimeter mole road), library, Burton Chace Park, launching ramp, Harbor Administration facilities (partial), and the bike path. In addition, the County is developing a 1.46 acre wetland park on Parcel 9, and the County intends to locate a small park waterside at Parcel 52 connected to Fiji Way by a 32-foot wide, landscaped public promenade. Finally, the County has shall incorporated a pedestrian path on Parcel 147 (Formerly Parcel OT) connecting Washington Boulevard to Admiralty Way when development on that parcel occurs. The path on Parcel 147 shall be constructed and open to the public prior to the issuance of the Certificate of Occupancy for Parcel 147.

## **Recreation & Visitor-Serving Facilities**

### **Suggested Modification 6**

Under Visitor-Serving Facilities, page 2-5, delete the following:

~~Consistent with the County's objective of encouraging a larger segment of the public to enjoy Marina del Rey and its environs, the County has committed to a urban open space program in Parcel 49. The policies address two scenarios: if the launch ramp remains and if the launch ramp is moved to another location. Should the launch ramp remain, at minimum one acre of urban open space shall be provided. If the launch ramp is moved, a minimum of 2 acres of urban open space must be provided. The urban open space may consist of hardscape and landscape, and may be above ground level to maximize views. This provision of an open "commons" is best suited for the intensive visitor serving uses to occur at this site, and inasmuch as Chace Park is a short walking distance away, visitors can enjoy both venues in a single day.~~

### **Suggested Modification 7**



On page 2-7, starting from second to last sentence of second paragraph:

While the County has concurred with this recommendation, and the figures herein reflect the recommended space allocations, the County has not reduced the parking to that degree. Therefore, more public parking opportunities exist than are projected as necessary.

For the highest peak periods, such as the Boat Parade and the Fourth of July, a parking management plan will be implemented by the County. Notwithstanding the parking study, in the long term the County proposes to retain a minimum of 1,200 2,895 parking spaces. In the near term, the known projects of the County will result in a reduction of parking spaces to 2,351 spaces. Since this is more than twice the number projected as needed between 2009 and 2030, this is an adequate parking provision.

### Suggested Modification 8

On page 2-8, second paragraph:

It is important to note that the County has existing agreements, predating in most cases the LCP, which allow the use of underutilized public parking lots. This practice is expected to continue for the foreseeable future; however, once parcels with parking agreements are and after redevelopment, pursuant to a coastal development permit, the agreements will be terminated.

### Suggested Modification 9

On page 2-12, Figure 23: Public Parking Lots-Near Term Configuration

Lot	Parcel	Address	Capacity	Remarks
1	W/55	13737 Fiji Way	502483	Fisherman's Village
2	49R	13477 Fiji Way	466	Public Parking/Launch ramp
4	49M	13500 Mindanao Way	243124	Overflow – Chace Park Marina Shopping Center
5	UR	4545 Admiralty Way	240	Overflow MdR Hotel, Other
6	SS	4500 Admiralty Way	115	Admiralty Park – Turf
7	Q	4350 Admiralty Way	120118	Admiralty Park – Paved
8	147 OT	4220 Admiralty Way	18692	Overflow Beach, Int'l Hotel, other Oxford Basin
9	N	14101 Palawan Way	191	Beach, Overflow
10	IR	4101 Admiralty Panay Way	212216	Beach
11	GR	14101 Panay Way	362264	Beach, Overflow
12	FF	14151 Marquesas Way	202	Overflow Pier view Café
13	3	4601 Via Marina	140	Channel Vista, Overflow

14	A	4601 Via Marina	60	Channel Vista
45	LLS	4001 Via Marina	40	
16	EE	4001 Via Marina 13650	5860	Chace Park
17	83	Mindanao	13	
N/A	21	13399 Fiji Way	94	None
	52	14004 Panay Way	245	Temporary Parking
		13051 Fiji Way	2,895	
		TOTAL	3,138	

Notes: 1) ~~A minimum of 1200 public parking spaces will be maintained.~~ 12) The County plans to incrementally increase public parking in several areas as follows: a) Parcel GR-Increase by approximately 100 spaces, and b) Parcel 49M-Increase in association with the expansion of Chace Park and possible replacement of 101 spaces for Parcel FF, now Parcel 14, at either Chace Park or Marina Beach and c) 94 spaces from ~~Lot Parcel~~ 8 to Parcel 21.

### Suggested Modification 10

On page 2-11, Findings, add:

To mitigate the loss of recreational park space due to the conversion of Parcel FF and OT from Open-Space to a lower priority use, the developer of Parcel FF and OT shall contribute at double (\$1,200) the rate to the Coastal Improvement Fund pursuant to Section 22.46.1950.

### Suggested Modification 11

On page 2-15, *Public Lots*, No. 9:

~~Except as stated above, p~~Public parking lots shall not be assigned to, nor allocated for use by private leasehold uses for the purposes of satisfying parking requirements for such private uses. All private uses shall satisfy their parking requirements on site. Parking agreements that predate the California Coastal Act or the LCP, or which have been incorporated into a coastal development permit vested prior to LCP certification shall be exempt from this requirement.

### Suggested Modification 12

Under *Public Lots*, Page 2-16 add:

13. In order to maximize public access, establish and implement short-term parking options (i.e. 2 and 4 hour limits) at all long-term only public parking lots to allow price flexibility to visitors for shorter term use.

## Recreational Boating

### Suggested Modification 13

On page 3-2, C. *Research Analysis*, first paragraph:

Planned and developed as a recreational small craft harbor, Marina del Rey will ultimately provides 5,923 up to ~~4,255~~ **4,338** wet-slips berths on its 406 acres of water, together with up to ~~1,088~~ **1,114** dry storage spaces for a minimum of ~~5,343~~ **5,452** berths as defined herein. Figure 4 identifies the distribution of smaller berths in Marina del Rey. ~~The parcel location and operator of the individual anchorages.~~

### Suggested Modification 14

Figure 4 on page 3-2, modify table as follows:

#### **FIGURE 4: MINIMUM SLIP PERCENTAGES FOR SMALLER BOATS**

##### **A. Waterfront Slip Length Distributions**

<b>Berth Length</b>	<b>Percentage</b>
<del>32</del> <b>30</b> FEET AND UNDER	<del>25</del> <b>39</b> %
<del>30</del> <b>31 to 35</b> FEET AND UNDER	<del>50</del> <b>20</b> %

### Suggested Modification 15

On page 3-4 add:

Over ~~50~~**9**% of the wet slips will be in lengths ~~385~~ feet and under.

### Suggested Modification 16

On page 3-6, Delete:

~~With respect to Parcel 49 and the public launch ramp, the County is exploring an integration of the launch ramp with a more intensive visitor serving opportunities.~~

~~The County has provided that the launching facilities remain in operation if this is to occur, and has also provided that if the launch ramp moves, it must be opened before the existing launch ramp is removed.~~

## **Suggested Modification 17**

On page 3-8, *e. Policies and Actions*, modify as follows:

2. Slip reductions resulting from marina reconstruction shall be offset in support of low-cost boating. For marina reconstruction projects, every 100 slips in excess of 320 feet shall comply with the following conditions:

~~Prior to the issuance of a coastal development permit, the applicant or its successor in interest shall agree to provide:~~

~~a. An in-lieu fee to the County, or a non-profit organization acceptable to the Executive Director of the Coastal Commission, to be used for scholarships for youths to participate in boating programs, for purchase of sail training vessels, funding for transportation to bring youths to the Marina, and for other similar programs to enhance lower cost boating opportunities. Such programs may include, but are not limited to the County's Water Awareness, Training, Education and Recreation (W.A.T.E.R.) Youth Program.~~

~~b. The in-lieu fee shall be the equivalent annual rental value of one 30 foot boat slip (based upon the listed per foot rental rate posted at the marina on July 1 of each year for 30 foot slips) for each 100 slips measuring over 32 feet in length. The payment of the in-lieu fee to the County, or the approved non-profit organization, will commence upon completion of the Marina redevelopment construction and continue annually, throughout the life of the project.~~

~~c. The DBH shall provide (or shall cause the appropriate non-profit organization to provide) an annual report, for the review and approval of the Executive Director of the Coastal Commission, detailing the in-lieu fees that have been collected, the lower cost boating programs developed and operated, and the number of people participating in such programs. The report shall be provided annually, no later than January 15th of each year for the preceding calendar year.~~

**PRIOR TO THE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY of a privately-leased marina, approved pursuant to a Coastal Development permit, the applicant shall provide an in-lieu fee to Los Angeles County**

Department of Beaches and Harbors, or a non-profit organization acceptable to the Executive Director of the Coastal Commission, to be used for scholarships for youths to participate in boating programs, for purchase of sail training vessels, funding for transportation to bring youths to the Marina, and for other similar programs to enhance lower cost boating opportunities. Such programs may include, but are not limited to, the County's W.A.T.E.R. Youth Program.

The annual in-lieu fee shall be the amount equivalent to the annual rental of one 30-foot boat slip for each 100 new slips measuring over 30 feet in length in the subject anchorage. For new marinas containing fewer than 100 slips or fractions over 100 slips the in-lieu fee shall be prorated based on the number of slips; such as 30/100 [0.3 for 30 slips], or 150/100 [1.5 for 150 slips]. The annual rental of one 30-foot boat slip for the purposes herein shall mean the average annual rental of the published slip rates of all 30-foot boat slips in the subject marina. If there are no 30-foot boat slips then the average annual rental of the next larger size of slip in the subject marina as of July 1<sup>st</sup> of each year will be the basis for calculating the in-lieu fee.

The payment of the in-lieu fee to the County, or the approved non-profit organization, will commence upon completion of the marina redevelopment construction and continue annually, throughout the life of the project. The first annual payment of the fee will be due the earlier of the Outside Completion Date (as defined in the subject lease agreement) or the date on which a temporary certificate of occupancy was issued to the subject marina. If construction is phased, the minimum in-lieu fee will be due within 10 days of the issuance of the temporary certificate of occupancy, prorated to June 30<sup>th</sup>. Subsequent annual payments will be calculated from July 1<sup>st</sup> of each year, and be due no later than July 10<sup>th</sup>. The following provisions will also apply:

- End-ties will not be counted as a slip for in-lieu fee computational purposes.
- The Department shall provide (or shall cause the appropriate non-profit organization to provide) an annual report for the review and approval of the Executive Director of the Coastal Commission, detailing the in-lieu fees that have been collected, the lower cost boating programs developed and operated, and the number of people participating in such programs. The report shall be provided annually, no later than January 15<sup>th</sup>, for the preceding calendar year.

### **Suggested Modification 18**

On page 3-9, under e. *Policies and Actions*, add:

- 3. The County shall maintain the slip distribution for slips 35 feet in length and under, as shown in Figure 4, as the minimum slip distribution for those categories. At no time during reconstruction of any marina shall the slip distribution be less than 18% for slips 25 to 35 feet and under; and 37% for slips between 26 and 35 less than or equal to 30 feet.**

### **Suggested Modification 18a**

On page 3-9, under e. *Policies and Actions*, add:

**Upon request from any boater with a vessel 30 feet and under, that has been unable to find a slip in the vessel's slip size range within any marina in Marina del Rey Harbor, the County shall provide, or require the marina operator to provide, a larger slip if available. The County, or marina operator, shall rent said slip, regardless of size, at the current rental rate for the smaller vessel's slip size range until an appropriate sized slip is available within Marina del Rey Harbor.**

### **Suggested Modification 19**

On page 3-10, under e. *Policies and Actions, Boating-Related Support Facilities*, add:

- 5. During reconstruction of the marinas if there are fewer than 5% of the total dry boat storage spaces available for rent, the County shall establish sufficient boat dry storage space so as not to fall below a 5% dry storage availability threshold until all 1,114 dry spaces are available.**

### **Suggested Modification 20**

On page 3-10, under e. *Policies and Actions, Boating-Related Support Facilities*, add:

- 7. A parking provision of 0.6 spaces for each wet-slip shall ~~should~~ be provided.**



## Marine Resources/Water Quality

### Suggested Modification 21

#### Policies Specific to All New Development or Redevelopment

4.1. All new development and redevelopment shall be designed to prevent and minimize the discharge of pollutants that would cause or contribute to receiving water impairment or exceedances of state water quality standards.

- A. Promote pollution prevention and elimination methods that minimize the introduction of pollutants into coastal waters, as well as the generation and impacts of dry weather and polluted runoff.
- B. Require that development not result in the degradation of coastal waters (including the ocean, estuaries and lakes) caused by changes to the hydrologic landscape.
- C. Support and participate in watershed-based runoff reduction and other planning efforts with the Regional Board, the County of Los Angeles, upstream cities, and Los Angeles County Flood Control District (LACFCD).
- D. Continue to update and enforce the County of Los Angeles Water Quality Ordinance(s) consistent with all applicable existing or new MS4 Permits.
- E. Develop and maintain a water quality checklist to be used in the permit review process to assess potential water quality impacts.
- F. Require beachfront and waterfront development to incorporate BMPs designed to prevent or minimize polluted runoff to beach and coastal waters.
- G. Encourage and support public outreach and education regarding the water quality impacts of development.
- H. Incorporate BMPs into the project design in the following progression:
  - a. Site Design BMPs.
  - b. Source Control BMPs.
  - c. Treatment Control BMPs.

Include site design and source control BMPs in all developments. When the combination of site design and source control BMPs

are not sufficient to protect water quality as required by the LCP or Coastal Act structural treatment BMPs shall be implemented along with site design and source control measures and a Water Quality Management Plan shall be prepared.

Appropriate Structural Treatment Control BMPs and a Water Quality Management Plans shall be implemented whenever the development is identified as a priority project in the applicable municipal stormwater permit for this LUP.

#### **4.2 Water Quality Management Plan**

Any new development or redevelopment identified under 4.1.H shall require a Water Quality Management Plan (WQMP) to be prepared by a licensed water quality professional, which shall include plans, descriptions, and supporting calculations. The WQMP shall incorporate where necessary, structural and non-structural Best Management Practices (BMPs) designed to reduce the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site.

The WQMP's purpose is to minimize to the maximum extent practicable dry weather runoff, runoff from small storms (less than 3/4" of rain falling over a 24-hour period) and the concentration of pollutants in such runoff during construction and post-construction from leaving the property.

In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- A. Mimic undeveloped stormwater and urban runoff rates and volumes in any storm event up to and including the "50-year capital design storm event," as defined by Public Works (Relevant County Code (LID): 12.84.440)
- B. Implement and improve upon best management practices (BMPs) for residences, businesses, new development and significant redevelopment, and County operations to prevent the transport of bacteria, pesticides, fertilizers, pet waste, oil, engine coolant, gasoline, hydrocarbons, brake dust, tire residue, and other pollutants into recreational waters.
- C. Where feasible, avoid conveying runoff directly to the County's streets or stormwater drainage system without the benefit of absorption by permeable surfaces, such as landscaped areas, or treatment control BMPs.

- D. Impervious surfaces, especially directly connected impervious areas, shall be minimized, and pervious pavement shall be evaluated and used where practicable.
- E. Appropriate structural and non-structural BMPs (site design, source control and treatment control) shall be designed and implemented to minimize water quality impacts to surrounding coastal waters.
- F. Where infiltration of runoff would exacerbate geologic hazards, include equivalent BMPs that do not require infiltration.
- G. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized.
- H. To further reduce runoff; direct and encourage water conservation via the use of weather- and moisture-based irrigation controls, tiered water consumption rates, and native or drought-tolerant plantings in residential, commercial, and municipal properties where feasible.
- I. Provide storm drain stenciling and signage for new storm drain construction in order to discourage dumping into drains and increase public awareness.
- J. Trash, recycling and other waste containers shall be provided as necessary to meet prevent overflow. All waste containers, anywhere within the development, shall be covered, watertight, and designed to resist scavenging animals.
- K. Require new and redevelopment projects to protect the absorption, purification, and retention functions of open spaces that will be retained or are created by approved projects, and ensure that runoff from the development will not adversely impact these open spaces.
- L. Require commercial development to incorporate BMPs designed to prevent or minimize the runoff of pollutants from structures, landscaping, parking areas, loading and unloading dock areas, repair and maintenance bays, and vehicle/equipment wash areas.
- M. Where feasible, runoff from all roofs, roads and parking areas shall be collected and directed through a system of structural BMPs including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. The system of BMPs shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants (including trash, debris and vehicular fluids such as oil, grease, heavy metals and hydrocarbons) through infiltration, filtration and/or biological

uptake. These drainage systems shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner.

- N. Require parking lots and vehicle traffic areas to incorporate BMPs designed to prevent or minimize runoff of oils and grease, car battery acid, coolant, gasoline, sediments, trash, and other pollutants to receiving waters.
- O. Parking lots, driveways and streets shall be dry swept on a regular basis, in order to prevent dispersal of pollutants that might collect on those surfaces. All uncovered parking lots shall be swept at least once a year prior to the onset of the wet season. Parking lots shall not be washed down unless the water used is directed through the sanitary sewer system or a filtered drain.
- P. Require all service stations, car washes and vehicle repair facilities to incorporate BMPs designed to prevent or minimize runoff of oil and grease, solvents, car battery acid, coolant, gasoline, and other pollutants to stormwater system from areas including auto and boat fueling areas, repair and maintenance bays, vehicle/equipment wash areas, and loading/unloading dock areas.
- Q. Any detergents and cleaning components used on site shall at a minimum comply with the following criteria: they shall be phosphate-free, biodegradable, and non-toxic to marine wildlife; amounts used shall be minimized where feasible; no fluids containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye shall be used.
- R. Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- S. Require structural BMPs to be inspected, cleaned, and repaired as necessary to ensure proper functioning for the life of the development. Condition coastal development permits to require ongoing application and maintenance as necessary for effective operation of all BMPs (including site design, source control, and treatment control).
- T. All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired, for the life

of the development, at the following minimum frequencies: (1) prior to October 15th each year; (2) during each month between October 15th and April 15th of each year and, (3) at least twice during the dry season (between April and October).

- U. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- V. It is the Los Angeles County's responsibility to maintain or ensure that its lessee maintains the drainage systems and the associated structures and BMPs according to manufacturer's specifications, for the life of the development.

#### 4.3 Low Impact Development

In order to prevent significant adverse impacts on coastal water resources from existing and new development, either individually or cumulatively, the County of Los Angeles shall incorporate and implement Low Impact Development standards within the Harbor-MDR which includes incentives for the public and private users to reduce impacts to water quality. The program shall include a list of implementation measures to reduce impacts to water quality in line with the Low Impact Development Manual for Southern California (2010): <http://www.casqa.org/LID/SoCalLID/tabid/218/Default.aspx>

At a minimum this shall include:

- A. Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion;
- B. Design and manage new development to prevent non-storm discharges (e.g., dry weather flow);
- C. All projects that construct new storm drain inlets or maintain existing inlets shall add a sign or stencil to the inlet with the following statement or equivalent language: "No dumping, drains into ocean";
- D. Promote the use of Low Impact Development practices to preserve the natural hydrologic cycle and minimize the impacts of new impervious surfaces or other development that increases stormwater or dry weather runoff.
- E. Whenever feasible, runoff will be diverted through planted areas or sumps that recharge the groundwater and use the natural

filtration properties of the earth to prevent the transport of harmful materials into receiving waters.

- 4.4. Material used for construction of piers, pilings, docks, dolphins, or slips shall not include timber preserved with creosote, (or similar petroleum-derived products). Pilings treated with Ammoniacal Copper Arsenate (ACA), Ammoniacal Zinc Arsenate (ACZA) or Chromated Copper Arsenate (CCA) shall be used only if wrapped or coated prior to installation with a water tight plastic sleeve, or similar sealant. To prevent the introduction of toxins and debris into the marine environment, the use of plastic wrapped pilings (e.g., PVC Pilewrap) and reinforced plastic for pilings (e.g., high density polyethylene (HDPE) pile armor), shall conform to the following requirements:
- A. The material used shall be durable and a minimum of one-tenth of an inch thick.
  - B. All joints shall be sealed to prevent leakage.
  - C. Measures shall be taken to prevent ACA, CCA and/or ACZA from dripping over the top of plastic wrapping into State Waters. These measures may include wrapping pilings to the top or installing collars to prevent dripping.
  - D. The plastic sleeves shall extend a minimum of 18 inches below the mudline.
  - E. Plastics used to protect concrete or timber piers and docks or for flotation shall be subject to regular inspection to prevent sloughing of plastics into the waterway. A comprehensive inspection and maintenance plan shall be a requirement of any approval for projects involving plastic/or similar material wrapped piles, for the life of the piles.
  - F. The lessee shall be made responsible for removal of failed docks or materials.
  - G. If federal or state regulatory agencies, through new or better scientific information, determine that environmentally less damaging materials or methods are available for new piles or piling replacement, the least environmentally damaging materials and/or methods should be required for such projects, where feasible.



**Policies Specific to Construction Related Activities**

- 4.5. All new development or redevelopment shall be designed to minimize erosion, sedimentation and other pollutants in runoff from construction-related activities to the maximum extent practicable. Development or redevelopment shall minimize land disturbance activities during construction (e.g., clearing, grading and cut-and-fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils), to minimize the impacts on water quality.
- 4.6. **Construction and Maintenance Responsibilities and Debris Removal**  
All new development or redevelopment in the Marina shall include the following construction-related requirements:
- A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
  - B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to ESHA Important Biological Resources, wetlands or their buffers.
  - C. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
  - D. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
  - E. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
  - F. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located within the coastal zone, a separate Notice of Impending Development shall be required before disposal can take place.
  - G. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets (or the inlets will be temporarily covered) and any waterway, and shall not be stored in contact with the soil.
  - H. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners

- or solvents shall not be discharged into sanitary or storm sewer systems.
- I. The discharge of any hazardous materials into any receiving waters shall be prohibited. Appropriate storage and containment shall be provided for all hazardous materials used during the construction period, and must be removed and properly disposed of upon completion of the project.
  - J. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
  - K. The least damaging method shall be used for the construction of pilings and any other activity that will disturb benthic sediments. The suspension of benthic sediments into the water column shall be minimized (i.e., less than 1 hour in duration and less than 200 feet in greatest dimension) using appropriate BMPs (e.g., silt curtains).
  - L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
  - M. All construction BMPs shall be maintained in a functional condition throughout the construction of the project.

#### Policies Specific to Harbors, Marinas and Boating

- 4.7. Activities which produce, handle, or transport petroleum products or hazardous substances within Marina del Rey water areas shall be discouraged. This policy does not apply to retail fuel sales/operations for boaters and commercial fishermen in the Marina.
- 4.8. Adequate cleanup procedures and containment equipment shall be provided by the County of Los Angeles Department of Beaches and

**Harbors or by individual marina operators for all hazardous materials stored in the Marina.**

- 4.9. **Pump-out facilities adequate for all marine needs (e.g., bilges, wastewater) shall be provided by the County of Los Angeles Department of Beaches and Harbors or by individual marina operators.**
- 4.10. **All new development or redevelopment shall incorporate appropriate design elements and management practices to minimize adverse impacts to water quality related to boating facilities and boater waste in the Harbor to the maximum extent practicable. Boating in the Harbor shall be managed in a manner that protects water quality, and any persons or employees maintaining boats in slips or using slips on a transient basis shall be made aware of water quality provisions.**
- a. **Implement a daily inspection routine to monitor over-the-water maintenance and cleaning activities in the marina. Immediately investigate the source of any pollution or debris in the water, stop the discharge and initiate clean up or containment of the pollutant.**
  - b. **Provide and maintain proper trash disposal facilities that are wind and rain proof.**
  - c. **Maintain collection locations for discarding hazardous materials (e.g., contaminated fuel, oil absorbent materials, used oil, oil filters, antifreeze, batteries, paints, solvents, old cleaning products) or at least provide information to boaters on their individual responsibilities for discarding or recycling these materials.**
- 4.11. **Best Management Practices**
- The County of Los Angeles shall take the steps necessary to ensure that the long-term water-borne berthing of boats in the Marina will be managed in a manner that protects water quality through the implementation of the following BMPs, at a minimum:**
- A. Boat Maintenance and Cleaning Best Management Practices**
- **Boat maintenance shall be performed above the waterline in such a way that no debris falls into the water. If particulates (e.g. paint or plastic flakes) could be dislodged during work, a containment system should be installed between the work and the water, or the boat should be removed from the water.**

Containment systems include physical barriers such as tarps, drip pans, nets, floating work structures.

- In-water top-side boat cleaning shall be by hand and shall minimize the discharge of soaps and prevent the discharge of paints, trash or other debris. Where feasible, remove the boats from the water and perform cleaning at a location where debris can be captured and disposed of properly.
- Detergents and cleaning products used for washing boats shall be phosphate-free and biodegradable, and amounts used shall be kept to a minimum.
- Detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye shall not be used.
- Establish policies for underwater hull cleaning methods that do not result in a visible plume of bottom paint during in-water hull cleaning. Clean boat hulls only by hand and using the least abrasive method available, to remove fouling organisms. No metal scrapers may be used. If growth cannot be removed by minimally abrasive materials (cloth, sponges or soft plastic scrubbing pads) the boat should be hauled out for cleaning or other methods used to capture paint and fouling organisms.
- Establish policies in tenant, contractor and maintenance worker contracts for the amount and type of maintenance work allowed over the water, and enforce consequences for non-compliance.
- All boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters shall also use preventive engine maintenance, oil absorbents, bilge pump-out services, steam cleaning services or other methods to clean bilge areas that will not release contaminants to the coastal waters.
- Use of non-toxic hull coating materials shall be encouraged.

**B. Solid and Liquid Waste Best Management Practices**

- All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene, and mineral spirits shall be disposed of in a proper manner and shall not at any time be disposed of in the water or a gutter, or be allowed to discharge to any storm drain system.

**C. Sewage Pumpout System Best Management Practices**

- **Vessels shall dispose of any sewage at designated pumpout facilities or dump stations provided by the County of Los Angeles or individual marina operators.**
- **Biweekly mobile pumpout services shall be included in all leases in the marina at the time the lease is updated, renegotiated, or established.**

**D. Petroleum Control Management Measures:**

- **Boaters shall practice preventive engine maintenance and shall use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year, replaced as necessary, and disposed of properly.**
- **Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous waste disposal regulations. The boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps or dispersants that can be discharged by bilge pumps is prohibited.**
- **If the bilge needs more extensive cleaning (e.g. due to spill of engine fuels, lubricants, or other liquid materials), the boaters shall use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids.**
- **Bilge cleaners which contain detergents or emulsifiers shall not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.<sup>1</sup>**
- **Spill prevention and control measures shall be implemented for all fuel docks and remote fueling operations to ensure the proper handling and storage of petroleum products. Oil and spill prevention BMPs shall be used during fueling, whether at fuel docks or at remote vessel fueling, and shall include absorbent bibs and donuts.**

**E. Public Information**

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<sup>1</sup> Federal law prohibits the use of soaps or other dispersing agents to dissipate and/or mask oil on the water or in the bilge. Soaps emulsify oil, therefore, dispersing hydrocarbons through the water column and can be harmful to marine animals and bottom sediments. Violators are subject to criminal and civil penalties of up to \$32,500 per incident (33 CFR 153.305).

**Best management practices will be provided in writing to all marina operators, or lessees, for dissemination to the boating public. Appropriate outreach and education to slip owners and lessees, residential and transient boaters, utilizing the Harbor and Marina facilities.**

## **Sensitive Biological Resources—(“SBR”)**

### **Suggested Modification 22**

On page 5-1, under a. *Coastal Act Policies*, add the following Coastal Act references and discussion pertaining to “environmentally sensitive area”:

#### **a. Coastal Act Policies**

**Coastal Act Section 30230 requires the maintenance, enhancement and where feasible, restoration of marine resources:**

***Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.***

**Coastal Act Section 30231 requires protection of biological productivity and water quality as follows:**

***The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.***

**Coastal Act Section 30233 regulates the diking, filling or dredging and continued movement of sediment and nutrients in coastal waters, wetlands, estuaries, and lakes as follows:**



(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(6) Restoration purposes.

(7) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities proposed to be developed or improved, where the improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

(d) Erosion control and flood control facilities constructed on watercourses can impede the movement of sediment and nutrients that would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for these purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

(Amended by: Ch. 673, Stats. 1978; Ch. 43, Stats. 1982; Ch. 1167, Stats. 1982; Ch. 454, Stats. 1983; Ch. 294, Stats. 2006.)

**Coastal Act Section 30236, Water supply and flood control:**

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

**Coastal Act Section 30250 provides guidance for protecting coastal resources as follows:**

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

(b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.

(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

(Amended by Ch. 1090, Stats. 1979.)

As defined in the Coastal Act, “environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments (Coastal Act, Section 30107.5). If an area is found to be an “environmentally sensitive area”, the area is governed by Section 30240 of the Coastal Act and cannot be developed except in ways that are resource dependent. Marina del Rey is an entirely artificial environment. Everything within the bounds of Marina del Rey is created/urbanized; there are no completely natural areas in Marina del Rey. Nonetheless, starting in the mid-1990’s, colonial waterbirds began roosting and nesting in mature ornamental, non-native landscape trees in Marina del Rey; prior to this time colonial waterbirds occurred in small numbers as uncommon transients and winter visitors in the marina and surrounding area. Since the mid-1990’s the numbers of individual birds and the numbers of species has steadily increased so that Marina del Rey now supports, according to the the County’s Conservation and Management plan (CMP), a combined total of more than 100 breeding pairs of Double-crested Cormorants, Black-crowned Night-Herons, Great Blue Herons, Great Egrets, and Snowy Egrets. The large number of colonial waterbird breeding pairs in Marina del Rey indicates that these birds are successfully adapting to the urban environment and are not easily disturbed or degraded by human activities and developments. Their tolerance of human activities and developments fails to meet one critical element of the ESHA test – that they could be disturbed or degraded by human activities and developments. Furthermore, neither the colonial waterbirds nor their habitat (non-native tree stands serving as heronries) are rare or especially valuable because of their special nature or role in the ecosystem. Therefore, no Environmentally Sensitive Habitat Areas (ESHA) exist in Marina del Rey and therefore no Coastal Act policies relating to environmentally sensitive habitat areas currently apply. However, while no ESHA exist in Marina del Rey, and therefore no Coastal Act policies relating to environmentally sensitive habitat areas currently apply, Important Biological Resources (IBR), including colonial waterbirds and their heronries, do exist within the bounds of MDR and require policy protection as coastal resources per Coastal Act sections 30230, 30231, 30233, and 30250. This protection is consistent with the California Environmental Quality Act. These policies in parallel with the CMP, provide the necessary protection and an adaptive management approach intended to ensure the persistence and health of all important biological resources in Marina del Rey.

MDR is bordered by several ESHA areas including the Ballona Wetlands, Ballona Lagoon, and the least tern roosting area on Venice Beach. Some of the sensitive coastal species utilizing these areas also utilize MDR for

**foraging, roosting, nesting, and other activities and this is another reason for important biological resource protection within MDR.**

### **Suggested Modification 23**

On page 5-1, delete the following:

~~While no Environmentally Sensitive Habitat Areas exist in Marina del Rey, and therefore no Coastal Act policies relating to environmentally sensitive habitat areas apply, Sensitive Biological Resources (SBR) do exist and require policy protection as coastal resources. This protection is consistent with central principles of the Coastal Act and the California Environmental Quality Act, which taken together call for attention to sensitive coastal resources even if they do not rise to the level of ESHA.~~

### **Suggested Modification 24**

On Page 5-1, under *b. Issues Identified*, modify as follows:

~~The Oxford Retention Basin - **located** at the northern end of the Small Craft Harbor is an important flood control facility, and was designated as a bird conservation area in 1963. **It is currently an important roosting and nesting area for colonial waterbirds.** BASED UPON A SCIENTIFIC EVALUATION OF THIS SITE, SHOULD IT CONTINUE TO BE USED AS A BIRD CONSERVATION AREA (AND POSSIBLY IMPROVED OR EXPANDED) OR SHOULD IT BE CONVERTED TO ANOTHER USE?~~

~~Wetlands may occur as a result of abandonment of construction sites. HOW SHOULD THE LCP ACCOMMODATE THESE MANMADE OR INCIDENTAL WETLANDS IN THE REDEVELOPMENT OF MARINA DEL REY?~~

~~**Conflicts with** landscape installation, **tree trimming or removal**, and maintenance policies ~~can inadvertently but adversely affect~~ **and** wildlife. **WHAT PRECAUTIONS SHOULD BE INCORPORATED INTO THE PLAN TO ENSURE LONG-TERM PROTECTION OF IMPORTANT BIOLOGICAL RESOURCES WITHIN AND ADJACENT TO MARINA DEL REY?**~~

~~**Colonial waterbird roosting and nesting – This** has occurred at Marina del Rey for many years, and was recognized in the supporting work of the 1996 LCP amendment. Over the years, some water birds – mainly herons and egrets – have expanded their use of the Marina, adapting to non-native mature trees, ~~but also~~ causing decline and death in some trees, and in some cases conflicting with~~

the operation and redevelopment of Marina del Rey. BASED ON SCIENTIFIC EVALUATION OF MARINA DEL REY AND ITS ENVIRONS, WHAT IS THE APPROPRIATE LEVEL OF ATTENTION WHICH SHOULD BE DEVOTED TO THESE SPECIES, AND HOW SHOULD THEY BE ACCOMMODATED IN THE MARINA?

## **Suggested Modification 25**

On page 5-3, under Oxford Retention Basin, modify as follows:

The Oxford Retention Basin (also designated as a bird conservation area by the L.A. County Board of Supervisors in 1963) occupies 10.27 acres in the northwest corner of Marina del Rey. Its primary and dominant purpose is a storm water retention facility (flood control). The basin must be periodically maintained by excavating materials, and must be managed in terms of tides and water levels prior to storms to fulfill its flood control function. Over the years, the non-native landscape vegetation has reached the end of its useful life, and has deteriorated.

Although various proposals have been advanced over the years to improve the area as a wild bird habitat, the L.A. County Natural History Museum conducted a 17 month-long study of the area (The Birds of Bird the Conservation Area by Ralph W. Schreiber and Charles F. Dock, 1980) that described the area as “not an important component of the overall pattern of avian distribution in the L.A. area.” That study first reported on herons foraging in Oxford Basin, and heron use of the basin has increased over the years. **Since the study herons and egrets have continued to increase in number Marina del Rey. Oxford Basin is the location of the largest roosting congregations of snowy egrets, black crowned night herons, and great egrets. Oxford Basin is an ideal place to encourage colonial water bird foraging because there are little if any human/bird conflicts at this location. Oxford Basin was created as a flood control facility and flood control remains its primary purpose. As such, ongoing maintenance activities such as sediment removal, pipeline clearance, and culvert repair are expected. However, in its role as a flood control facility Oxford Basin currently provides habitat with biological values that can be enhanced and restored. Removal of non-native species and restoration of salt-marsh, coastal sage scrub, and willow scrub habitat will greatly improve the area.**

The CMP published by the County in 2010 recommends the restoration and expansion of Oxford Basin, which contains a portion of the historical Lagoon, and also recommends incorporating professional management approaches into IBR policies for the basin while acknowledging that the basin’s primary function is to provide flood protection for surrounding neighborhoods. **Treating Oxford Basin**

as a IBR through enhancement and restoration as described above combined with improved maintenance and landscaping provides an opportunity to open up the area as a passive park where Important biological resources can thrive and MDR residents and visitors can enjoy.

Therefore, the opportunity exists to use the area as a passive public park with improved maintenance and landscaping, and to enhance the area as a SBR together with other improvements in the Marina. Adequate parking for visitors exists on Parcel Q adjacent to Yvonne B. Burke Park.

### **Suggested Modification 26**

On page 5-3 under, *Other Areas Identified for Restoration and Management*, modify as follows:

Areas further available for enhancement of their biological value include (a) the proposed wetland park on Parcel 9, which is currently a vacant lot with the remnants of an abandoned hotel development project, **Admiralty Park Yvonne B. Burke Park, Burton W. Chace Park,** and (b) the margin of Ballona Wetlands (Area A). The Conservation and Management Plan identifies the removal of non-native trees and shrubs from along the eastern shoulder of Fiji Way, adjacent to Area A, as a measure that would enhance ecological values of Area A. The CMP's Marina-wide management recommendations provide for the retention of mature non-native trees, where appropriate, and identify policies designed to maintain viable breeding populations of waterbirds, as well as other native species, in Marina del Rey.

### **Suggested Modification 27**

On page 5-4, delete the following:

#### **b. Findings**

As defined in the Coastal Act, "environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments (Coastal Act, Section 30107.5). If an area is found to be an "environmentally sensitive area", the area is governed by Section 30240 of the Coastal Act and cannot be developed except in ways that are resource dependent. The SBRs are not ESHA merely because they contain sensitive resources.

~~While no ESHA currently exists in Marina del Rey, and therefore no Coastal Act policies relating to environmentally sensitive habitat areas apply, Sensitive Biological Resources (SBR) do exist within the bounds of MDR and require policy protection as coastal resources per Coastal Act sections 30230, 30231, 30233, and 30250.~~

~~The County recognizes that the fact that a resource does not rise to the level of ESHA does not mean it is without value, or not deserving of protection. For this reason, the County contracted development of a Conservation and Management Plan and has developed specific policies to address the needs of sensitive biological resources. The County approach involves both a set of management actions for resources in Marina del Rey, as well as approaches policies for enhancing resources that already exist or are planned. In this way, the resources in Marina del Rey will be given the appropriate level of attention.~~

~~Marina del Rey is a highly urbanized area that is dominated by human activities. Rather than resources being “disturbed or degraded” by human activities, wildlife species have colonized an already developed area and adjusted to pre-existing human activities. Therefore, the extraordinarily high degree of protection afforded by Coastal Act Section 30240 is inappropriate in Marina del Rey. A key element of the definition of “environmentally sensitive resource area” is missing – namely, that the resource is “easily disturbed or degraded by human activities.” Birds that are “easily disturbed” by human activities would not choose to colonize a busy area like Marina del Rey.~~

~~However, the fact that a resource does not rise to the level of ESHA does not mean it is without value, or not deserving of protection. For this reason, the County has developed specific policies to address the needs of sensitive biological resources. The County approach involves both a set of management actions for resources in Marina del Rey, as well as approaches for enhancing resources that already exist or are planned. In this way, the resources in Marina del Rey will be given the appropriate level of attention.~~

#### **dc. Policies and Actions**

##### **Suggested Modification 28**

On page 5-5 under Oxford Basin, modify as follows:

It is understood that Oxford Basin’s primary role involves receiving runoff from streets and providing flood control for the surrounding area. There is no other flood control facility in this area, nor is there land available for such a facility. As such, the Basin must be regularly maintained, including periodic removal of

sediments, regular inspection of the facility, and operation of tide gates. Nevertheless, opportunities exist to substantially increase habitat values of Oxford Basin for various native plant and wildlife species without compromising its flood control mission.

*Restore functional saltmarsh habitat*

The vegetated intertidal zone at Oxford Basin currently supports such native saltmarsh plants as Common woody pickleweed (*Salicornia virginica*), sandmarsh sand-spurry (*Spergularia marina*), and spearscale (*Atriplex prostrata*). This native vegetation should be preserved in place or stockpiled during any reworking of the basin's contours.

The term "functional saltmarsh habitat" implies regular and, if possible, natural tidal flushing (corresponding to timing and magnitude of natural tidal cycles). A functional saltmarsh at Oxford Basin would, ideally, support a healthy sedimentary invertebrate fauna, to provide habitat for ducks and shorebirds, and a predictable population of small fish during the May–July nesting season for the California least tern, a listed species that maintains a large nesting colony on Venice Beach and that has been documented foraging at Oxford Basin in past years. Many other migratory and resident waterbirds would also benefit from the enhancement of this habitat.

To the extent possible and consistent with the primary flood control purpose, any reworked design of Oxford Basin should work with the natural characteristics of the site (e.g., historical land contours, soil characteristics). Once the final contours are established, habitat should be established to include areas of emergent native marsh vegetation exposed during high tide, to serve as refugia for animals, and areas of exposed mud ("mudflats") at low tide, to serve as foraging areas for migratory and resident birds. Although the extent of mudflats may be limited by engineering constraints, including at least a band of this habitat at low tide would be valuable, considering how much mudflat habitat was lost during construction of Marina del Rey, and how vital such areas are for a wide variety of native wildlife, including birds, mollusks, and other intertidal invertebrates.

Subsurface debris, including chunks of concrete and asphalt, and sections of pipe, should be removed from the basin where possible, as these would interfere with ecological functions of the mudflat.

*The County will establish the primacy of wildlife habitat values over recreational uses*



The County intends to remove non-native landscaping and increase public access to the margins of Oxford Basin. Existing dense vegetation and fencing provides considerable security for wildlife, including the herons and egrets that use the basin's existing habitats in large numbers. Improving public access to the basin and replacing the tall myoporum with low-growing scrub will be of little or no practical value (for wildlife or the public) if increased human activity causes the herons, egrets, and other wildlife species to stay away from Oxford Basin. Therefore, **a phased plan to remove the invasive non-native trees and to replace them with appropriate roosting and nesting native and non-invasive. Non-native trees must be developed in conjunction with developing enhanced Oxford Basin public access opportunities. It is imperative to maintain and enhance Oxford Basin for wading bird roosting and nesting because this is an area currently favored by many species that does not have significant human/bird conflicts.** The basin must be managed carefully for its wildlife habitat values, along with providing for flood protection and water quality improvement. Levels of passive recreation and other non-essential human uses should not conflict with these main purposes.

From the 1970s through the 1990s, Oxford Basin served as a "dumping ground" for unwanted pets, mainly ducks, chickens, and domestic rabbits (often exchanged at Easter). These animals were thrown over the fence, creating a public nuisance and degrading the area's ecology. With plans for new fencing and increased public access to the basin, care must be given to ensure that the old pattern does not recur, perhaps by the creation and support of a local stewardship organization (including a volunteer ranger/docent program) and clear, vandal-resistant (and easily-replaced/repared) signage.

Any new development at Oxford Basin shall be evaluated for its role in promoting natural wildlife habitat, vs. degrading or hindering this habitat. As the site is restored and public access improves, the County may receive proposals from groups to make various uses of the area (e.g., filming, special events, trash clean-up). The County will establish a mechanism for handling such requests, will include appropriate provisions in a contract with an outside resource management group or a local Audubon chapter.

Care will be taken to communicate effectively with all relevant users and managers that Oxford Basin, although first and foremost a flood-control facility, can be managed simultaneously as a habitat for native plants and wildlife without affecting flood-control capabilities. Therefore, activities like dumping compost or construction material, planting inappropriate vegetation, and feeding wildlife or domesticated birds, will not be tolerated. Maintenance and management activities will be carefully crafted to insure that flood control and water quality goals are met, that wildlife habitat is enhanced, and that public activities are regulated in a way that fulfills the public works and wildlife enhancement

objectives. If periodic restrictions to public access are necessary to fulfill one or both of the primary goals, such restriction is permitted.

*Restoration and landscape management considerations for upper slopes*

Non-native vegetation should be removed from all parts of Oxford Basin on a regular, continuing basis under the supervision of a qualified professional, except where demonstrated to be critical to fulfilling an important natural process (e.g., retention of a small number of eucalyptus, ficus, or other non-native trees with regularly-nesting herons/egrets), consistent with the operation and maintenance requirements of the Los Angeles County Flood Control District (LACFCD). However, no new non-native vegetation, or even "California native" (but not locally-native) vegetation inappropriate for the Ballona Wetlands, should be introduced.

The establishment of appropriate native landscaping will probably require a complete removal of all existing ground cover and weeds, and could also require eradication of the weed seedbank (e.g., through "solarization" or appropriate means).<sup>2</sup>

All vegetation above the high-tide line to be preserved, promoted, and restored/re-created should consist only of the ~~two~~ three habitat types native to the historical Ballona Wetlands area: 1) coastal scrub (a low-profile, summer-deciduous community dominated by such species as California sagebrush *Artemisia californica*, California sunflower *Encelia californica*, and coast goldenbush *Isocoma menziesii*), and 2) willow scrub (a low thicket-like community dominated by narrow-leaved willow *Salix exigua*), **and riparian canopy (Native and non-invasive, non-native trees appropriate for supporting roosting and nesting colonial waterbirds)**. A professional firm, or firms, specializing in southern California native plant restoration, installation, and maintenance is recommended to prepare the site for planting, and to achieve successful establishment of these native communities.

Unnecessary and derelict concrete structures currently on the site (such as old wildlife watering troughs) and redundant fencing should be removed from the upper slopes where feasible.

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<sup>2</sup> The term *solarization* refers to sterilization of soil by covering it with plastic sheeting for roughly six weeks during warm weather. The sun's radiation is converted to heat by absorption, heating the material above 60°C, hot enough to kill seeds and pathogens in the soil.

The County will support relocation of telephone lines that currently cut across the northern part of Oxford Basin if such re-routing along Washington Boulevard or Admiralty Way is proposed by the entity operating these lines, as they could conflict with future wildlife use of the site (and lead to collisions with flying birds, especially on foggy days).

### **Suggested Modification 29**

On page 5-8, move the section on *Conservation Policies for Wetland Park at Parcel 9*, to 5-4 under *b. Issues Identified*.

### **Suggested Modification 30**

On page 5-8, section on *Conservation Policy for Margin of Ballona Wetlands (Area A)*, move to page 5-4 under *b. Issues Identified*.

### **Suggested Modification 31**

On page 5-9, *Summary of Management Assumptions and Concepts*, delete:

#### **~~Summary of Management Assumptions and Concepts~~**

~~The following numbered points provide a concise summary of information discussed at length in the CMP and outline the basic rationale behind that plan's management recommendations.~~

- ~~1. In 2009, after at least five years with generally increasing numbers and diversity of nesting colonial waterbirds at Marina del Rey, the first marina-wide census of nesting areas and population sizes for Double-crested Cormorants, Black-crowned Night herons, Great Blue Herons, Great Egrets, and Snowy Egrets showed that these species appear to be thriving at the marina, and each of their local populations exists at relatively high levels for Los Angeles County and elsewhere along the coast of southern California.~~
- ~~2. Nesting herons, egrets, and cormorants, while historically not recorded along the coast in the Ballona Wetlands and at the Los Angeles River mouth in notable numbers, started appearing in MDR in the early '90's and not present historically at the marina, are thriving in the marina now. These colonial waterbirds and should be given the opportunity to continue to forage, roost, and nest in MDR. Annual surveys should be conducted to monitor the status of colonial waterbirds in MDR. If and when conflicts arise and where their presence is shown to so long as their presence is compatible with (a) other species of conservation concern in the local area~~

- ~~and (b) with human usage of the marina appropriate measures, as laid out in the CMP and tree pruning and removal policies 23 and 34, will be undertaken.~~
- ~~3. Waterbird nesting colonies are scattered throughout the marina, subject to change from year to year, and do not always occur where they might be expected. This dynamism and lack of predictability prevent managers from identifying the area's "sensitive" resources; only through periodic review can this question be answered at any given time. An effective management strategy should consider all trees in Marina del Rey as having potential to support nesting in the future.~~
  - ~~4. Some species of colonial waterbirds, including the Great Blue Heron and Black-crowned Night Heron, have been shown to negatively impact nesting of other species by preying on nestlings. This may be related to the size and proximity of the nesting colony of the depredating waterbirds. Each situation is different, which necessitates a case-by-case, adaptive management approach.~~
  - ~~5. At the Venice California Least Tern colony, predation by American Crows has presented serious management problems in recent years. Therefore, appropriate measures should be taken to discourage the proliferation of crows and other omnivorous species in Marina del Rey (and elsewhere in the local area).~~
  - ~~6. The CMP recommends against installing more non-native trees that could provide additional waterbird nesting substrates, and against providing man-made structures for nesting waterbirds at Marina del Rey due to (a) lack of evidence that these species nested in the local area historically; (b) potential conflicts between colonial waterbirds and species of conservation concern in the local area, especially the California Least Tern; and (c) potential conflicts between colonial waterbirds and established human uses of the marina. The CMP also recommends against replacing nesting trees with new nesting trees if they should be rendered unusable through natural/normal use by the birds (e.g., "guano-trophy" of the nesting trees at the end of Fiji Way) or acts of nature. Rather, to the extent possible, natural processes should guide habitat management decisions marina-wide.~~
  - ~~7. For public safety, tree health, and to allow intended human uses of the marina, trees must occasionally be pruned or removed. This must be done in accordance with state and federal law and tree pruning and removal policies 23 and 34. With regard to these activities, the colonial waterbirds that nest in Marina del Rey enjoy the same legal protections afforded to nearly all other native bird species (i.e., active nests may not be disturbed).~~
  - ~~8. The general expansion and diversification of Marina del Rey's waterbird colonies achieved under the County's existing (2006) tree pruning policy leads the CMP authors to conclude that this bird-friendly policy effectively supports the continued existence of colonial waterbirds in the marina.~~

- ~~9. Nevertheless, because colonial waterbirds are extremely visible, popular, and charismatic components of Marina del Rey and nearby areas, and in light of ongoing potential for serious conflicts between nesting colonies and legitimate human uses of the marina (such as the current situation involving dying cypress trees at the end of Fiji Way), a more formalized management approach for the area's waterbird colonies is warranted.~~
- ~~10. First, the County has extended its existing (2006) tree pruning policy (No. 23) to cover all leaseholders (No. 34) in Marina del Rey (the 2006 policy applied only to the County itself and new or renewing leases, but not to leaseholders in good standing with the County).~~
- ~~11. Second, in cases where a waterbird nest might be removed or rendered unusable as a result of pruning that an arborist deems necessary to promote the health of the tree (as permitted under the County's existing tree pruning policy), the policy should be amended to specify that a County biologist, or County contracted biologist, review and approve the proposed pruning. The purpose would not be to second-guess the arborist, but to provide an appropriate level of administrative biological review before actions are taken that could potentially disrupt waterbird nesting in future years. Pruning deemed necessary to alleviate an immediate threat to public safety would not be subject to this additional review.~~
- ~~12. The CMP recommends that the County conduct waterbird population surveys, preferably on an annual basis, that would be needed in order to track the status of colonies and to provide current information on the locations of active nests to the public, the County, resource agencies, and other regulators. The County concurs with this recommendation.~~
- ~~13. The CMP also recommends that the County conduct periodic nesting colonial waterbird surveys (e.g., every 3-5 years) throughout the coastal slope of Los Angeles County to establish a regional context for the Marina del Rey colonies. For example, the Snowy Egret is known to breed in fewer than five locations on the coastal slope of Los Angeles County, with Marina del Rey supporting one of the larger colonies. Should this continue to be the case, special care should be taken around the marina's Snowy Egret colonies, to help preclude a regional population decline. The County concurs with this recommendation as funding permits.~~

## **Suggested Modification 32**

On page 5-11, *Tree management Policies*, modify as follows:

### **Tree Management Policies (No. 23 and 34)**

The following ~~numbered paragraphs~~ policies provide ~~guidance~~ **standards** for County personnel, contractors, lessees, and anyone else potentially involved in

pruning or removing trees in Marina del Rey. Note that, for most species, the "breeding season" generally extends from January through August. For species like the Great Blue Heron, however, breeding activities may start as early as December, and both Mourning Doves (*Zenaida macroura*) and hummingbirds may nest essentially year-round. Since removal of the active nest of virtually any native species represents a violation of State and federal law, all tree pruning or removal should be done in consultation with a trained biologist familiar with the relevant statutes and with ~~this plan~~ these policies ~~and its goals~~. Furthermore, the "breeding season" for bats is considered to extend from March 1 to September 15. **A coastal development permit is required for any nesting tree removal associated with new development, re-development, or renovation. The only exception would be if the nesting tree removal associated with new development, re-development, or renovation is necessary for a health and safety emergency.**

- ~~1) Trees posing an immediate safety threat that cannot be avoided (e.g., falling over into traffic or fire lane) should be pruned/removed immediately regardless of presence of nesting herons/egrets or other species. Notification should be provided to the California Department of Fish and Game (CDFG) and U.S. Fish and Wildlife Service (USFWS) before any action is undertaken that might disturb any actively nesting birds.~~
- ~~2) Trees not posing an immediate safety threat or not otherwise impacting normal human use of the marina shall be maintained in accordance with the policy 23 and 34 tree trimming guidelines. If a waterbird nest might be removed or rendered unusable as a result of pruning that an arborist deems necessary to promote the health of the tree (as permitted under the County's existing tree pruning policy), a County biologist or County contracted biologist will review and approve the proposed pruning. The purpose would be to provide an appropriate level of administrative biological review before actions are taken that could potentially disrupt waterbird nesting in future years.~~
- ~~3) In cases where a waterbird colony is fouling cars, landscaping, etc., but not apparently endangering public health, a temporary structure, such as a tarp or a tent supported by metal poles, may be erected below the colony, but the tree itself must not be disturbed during the breeding season as long as birds are involved in nest building, nesting, or raising young there.~~

### **Suggested Modification 33**

On page 5-11, under *Tree management Policies*, add the following Tree pruning policy:

## **POLICY NO. 23-- MARINA DEL REY TREE PRUNING AND TREE REMOVAL POLICY**

### **1.0 INTRODUCTION/PURPOSE**

**The purpose of this Policy and Policy No. 34 is:**

- 1.1 To establish guidelines within Marina del Rey for the pruning and removal of trees in accordance with the federal Migratory Bird Treaty Act and California Fish and Game Code, and to ensure the long-term protection of breeding, roosting and nesting habitats of federal and state-listed species, California Species of Special Concern, and colonial waterbirds.**
- 1.2 To provide County staff with guidelines and procedures for tree pruning and/or tree removal within Marina del Rey in consideration of the colonial waterbird species, as the term is defined in Section 4.3 of this policy, and raptor species, as the term is defined in Section 4.12 of this policy, and the desire to reduce or eliminate impacts to their nesting habitats.**

### **2.0 POLICY**

**This policy will be implemented by the County of Los Angeles Department of Beaches and Harbors for the purpose of overseeing the tree pruning and/or tree removal activities of Marina del Rey properties so as to minimize or avoid impacts to the nesting habitats established by colonial waterbird and raptor species. For clarification purposes, palms are included when any section in this policy refers to trees. Section 5.3 of this Policy contains procedures for addressing immediate and imminent health and safety and emergency issues.**

**The County will enforce and implement this policy in compliance with the Migratory Bird Treaty Act which prohibits the taking, killing or possession of any migratory bird and, therefore, disturbance of any nesting bird is illegal.**

**An earlier version of this policy has been carried out by the Department of Beaches & Harbors (Department) since 2003 to manage tree pruning and tree removal activities on County-operated Marina del Rey properties. This revised policy, taken together with the annual surveys of breeding and nesting federal and state listed species, California Species of Special Concern and colonial**

waterbirds, as outlined in the 2010 Marina del Rey Conservation & Management Plan, will continue to provide the basis for management and oversight to County-operated properties. The surveys shall be conducted by a qualified biologist(s) in Marina del Rey in order to establish the long-term status and trends of these species, especially colonial waterbirds. The survey reports shall include photos of active and inactive nests.

Following completion of the County's nesting colonial waterbird surveys each year, the Department will identify all County-operated properties on which no nests of colonial waterbird or raptor species were found. Tree pruning activities may commence on the identified properties within a reasonable period of time (i.e., outside of the breeding/nesting season).

The Department's qualified biologist (as the term is defined in Section 4.11 of this Policy) may use the annual nesting colonial waterbird surveys as the basis for part or all of the initial survey, where required, prior to the commencement of annual tree pruning on County-operated properties.

Considering Marina del Rey's urban character, its abundance of trees, and the propensity of local herons and egrets to nest in a variety of arboreal settings, the potential will always exist for land-use conflicts to develop in the marina environment. Such conflicts could include health risks (such as co-location with restaurant uses or risks to humans from airborne pathogens), safety risks (such as an unbalanced tree), and substantial interference with public amenities such as public parking or public walkways. In those limited circumstances, appropriate management responses could include pruning of trees during the non-breeding season to make them unsuitable as nesting substrates. Any such "directed pruning" should be done during the non-breeding season, which allows the affected birds an opportunity to select among ample nesting trees elsewhere in the nearby area. The annual nesting colonial waterbird surveys to be conducted by the County or County contractors are intended to include documentation of any apparent bird-human conflicts and make recommendations for how the conflicts might be resolved in ways that best respond to the Marina del Rey Conservation & Management Plan and normal public health, safety, and public-access consideration.



Department policy requires that all tree pruning and removal conducted in Marina del Rey adhere to the procedures outlined in this policy and in policy no. 34. Tree pruning or removal of nesting trees is prohibited during the breeding/nesting season except in the case of a health and/or safety emergency as defined below. In circumstances where tree pruning and removal is not completed during the non-breeding/non-nesting season, tree pruning or removal may proceed as prescribed in section 5.2 below on trees that annual surveys have shown are not active nesting trees and that have not been active nesting trees in the last five years.

All tree pruning and removal shall be conducted in strict compliance with this policy and Policy No. 34. However, if the County determines that pruning impacts a nest, or removal of a nesting tree is necessary for a reason other than a health and safety issue, a coastal development permit is required.

### 3.0 APPLICABLE STATUTES

#### 3.1 California Fish and Game Code § 3503

“It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto.”

#### 3.2 California Fish and Game Code § 3513

“It is unlawful to take or possess any migratory non-game bird as designated in the Migratory Bird Treaty Act or any part of such migratory non-game bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act.”

#### 3.3 Migratory Bird Treaty Act - U.S. Code, Title 16, § 703

“Unless and except as permitted by regulations made as hereinafter provided, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess . . . any migratory bird, any part, nest, or egg of any such bird. . . included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the United States and the

Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972[,] and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976."

**3.4 Special Purpose Permits - U.S Code of Federal Regulations, Title 50, § 21.27**

"Special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, nests, or eggs for any purpose not covered by the standard form permits of this part." Permit applications are submitted to the U.S. Fish and Wildlife Service's Regional Office.

**4.0 DEFINITIONS**

**4.1 Active Nest -- A nest that is under construction or that contains eggs or young.**

**4.2 Breeding/Nesting Season -- January 1 through September 30.**

**4.3 Colonial Waterbirds -- Great Blue Heron (*Ardea herodias*), Black-crowned Night-Heron (*Nycticorax nycticorax*), Double-crested Cormorant (*Phalacrocorax auritus*), Great Egret (*Ardea alba*), Snowy Egret (*Egretta thula*).**

**4.4 Department -- Los Angeles County Department of Beaches & Harbors.**

**4.5 Health Issue/Safety Issue -- A natural occurrence, disaster, or disease jeopardizing public health or safety and that causes immediate or imminent danger to any person or property. A health and safety danger exists if a tree or branch is dead, diseased, dying, or injured and said tree or branch is in immediate or imminent danger of collapse or breaking away. Health risks include proximity of airborne pathogens or animal waste to human habitation or dining facilities.**

**4.6 Nesting Tree -- A Tree as defined in 4.13 below containing Occupied or Unoccupied nests that have been used in the past five years or supporting evidence of courtship or nest building.**

**4.7 Non-breeding/Non-nesting Season -- October 1 through December 31.**

**4.8 Non-nesting Tree -- A Tree, as defined in 4.13 below, containing no nests or containing Unoccupied nests that have not been used in five or more years.**

**4.9 Occupied Nest -- A nest that contains eggs or young.**

- 4.10 Pruning -- The horticultural practice of cutting away an unwanted, unnecessary, or unhealthy plant part, used most often on trees, shrubs, hedges, and woody vines. Pruning includes, but is not limited to, 1) eliminating branches that rub each other, 2) removing limbs that interfere with wires, building facades, gutters, roofs, chimneys, or windows, or that obstruct streets or sidewalks, 3) removing dead or weak limbs that pose a hazard or may lead to decay, 4) removing diseased or insect-infested limbs, 5) creating better structure to lessen wind resistance and reduce the potential for storm damage, 6) training young trees, 7) removing limbs damaged by adverse weather conditions, 8) removing branches, or thinning, to increase light penetration, and/or 9) improving the shape or silhouette of the tree**
- 4.11 Qualified Biologist -- Graduation from an accredited college with a bachelor or higher degree in biological science or ornithology and at least two (2) years experience conducting nesting bird surveys or an arborist with a bachelor or higher degree in arboriculture and having at least two (2) years experience conducting nesting bird surveys.**
- 4.12 Raptor -- Order Falconiformes, which includes eagles, hawks, falcons, and ospreys.**
- 4.13 Tree -- A palm or a plant having a permanently woody main stem or trunk, ordinarily growing to a height over eight (8) feet and usually developing branches at some distance from the ground.**

## **5.0 PROCEDURE**

**Non-nesting trees on County-operated properties that are identified in the annual nesting colonial waterbird survey as having no active nests and no history of nesting within five years will be exempt from sections 5.1.1 through 5.1.11 of this Policy.**

**County-operated properties identified in the County's annual nesting colonial waterbird survey as having active nests will be required to follow the procedures contained in sections 5.1.1 through 5.1.11 of this policy.**

**Regardless of the results of the annual nesting colonial waterbird survey, the Department's plans to conduct tree pruning or tree removal activities at any time must follow the procedures prescribed by this policy.**

**5.1 Tree Pruning and Removal Restrictions During the Non-Breeding/Non-Nesting Season**

**5.1.1 Tree pruning on County-operated properties shall be performed during the non-breeding/non-nesting season on all nesting trees and to the greatest extent possible on non-nesting trees.**

**5.1.2 During the non-breeding season, at least fourteen (14) days prior to tree pruning, a qualified biologist shall coordinate with the County's landscape contractor and survey the trees to be pruned or removed to detect nests by conducting a ground level visual inspection of the trees scheduled for pruning. The tree survey report shall include a map with the respective status of all the trees scheduled for pruning or removal and a plot plan showing any trees suspected to have active or unoccupied nests. Copies of the survey and plot plan shall be filed by the Department for public agency review.**

**5.1.3 Seven (7) days prior to the commencement of tree pruning activities, the qualified biologist shall walk the entire area proposed for pruning with a pair of binoculars and/or spotting scope to determine whether the juveniles have fledged the nests and to evaluate whether any adults appear to be starting a new clutch (preparing to mate and lay eggs).**

**5.1.4 Upon complying with procedures described in subsections 5.1.1 through 5.1.3, the Department will notify the United States Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG) and the Executive Director of the California Coastal Commission (CCC) by submitting by e-mail within two (2) business days the qualified biologist's survey report and a copy of the tree pruning or removal plan prepared by the arborist or landscape contractor which shall incorporate the following:**

**a. A description of how work will occur.**

**b. Use of non-mechanized hand tools to the maximum extent feasible.**

**c. Tree pruning and/or removal limits established in the field with flagging and stakes or construction fencing.**

**d. Assurance that tree pruning will be the minimum necessary to accomplish the respective objectives.**

**5.1.5 Nesting or non-nesting tree(s) that show current evidence of courtship may not be pruned in a way that compromises the support structure of existing occupied or unoccupied nests. The amount of**

pruning at any one time shall be limited to preserve the suitability of the nesting tree for breeding and nesting habitat. Under limited circumstances, where a nesting tree(s) is determined to be an unmitigatable health or safety issue, the Department, in consultation with a Qualified Biologist and with notice to the appropriate agencies, may determine that pruning, so as to remove the empty nest and/or to discourage future nesting, or tree removal is appropriate.

5.1.6 Tree pruning or removal may not proceed if an active nest is found and/or evidence of courtship or nesting behavior is observed, even if it is occurring during the non-breeding season. Tree pruning or removal shall not occur any closer than 300 feet from these trees (500 feet in the case of an active Raptor nest). In the event that any birds exhibiting breeding and nesting behavior continue to occupy the trees during the non-breeding/non-nesting season, pruning or removal shall not take place until a qualified biologist has re-assessed the site, determined that breeding and nesting has ceased and given approval to proceed within 300 feet of any occupied tree (500 feet for raptor species). Following the compliance with procedures described in subsections 5.1.1 through 5.1.5, the Department will notify the USFWS, the CDFG and the Executive Director of the CCC by e-mail within two (2) business days of receiving qualified biologist's determination.

5.1.7 Unoccupied nests that have not been used in five or more years may be removed (including those attached to dead palm fronds) only after the qualified biologist documents and photographs the occurrence. Copies of photographs and reports shall be filed by the Department for public agency review.

5.1.8 In the event that colonial waterbirds are observed to return during the non-breeding season to a nest previously thought to be unoccupied while pruning operations are occurring, activities shall stop until the qualified biologist re-assesses the site. The Biologist may recommend proceeding conditionally, consistent with Section 5.2 of this Policy.

5.1.9 Special emphasis shall be placed on public safety during pruning operations, particularly when the operation is adjacent to bike paths, parking stalls, sidewalks, driveways, or the promenade.

5.1.10 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.

5.1.11 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Department shall develop a tree replacement planting plan for all trees to be removed, which plan should include the location, tree type, tree size, and planting specifications and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years.

5.2 Tree Trimming and Removal Restrictions During the Breeding/Nesting Season or Near Active or Occupied Nests

5.2.1 This section addresses non-nesting tree pruning or removal during the breeding/ nesting season. Nesting trees must be trimmed during the non-breeding and non-nesting season per section 5.1 above. This section specifically applies to those circumstances where the completion of tree pruning activities started during the non – breeding/non-nesting season extends into the breeding/nesting season. If tree pruning must occur during the breeding/nesting season, the Department will conduct a monitoring program to begin 14 days prior to commencing activities that have a potential to disturb any nesting tree. During the 14-day monitoring period, the Department shall arrange to have its qualified biologist conduct weekly surveys to detect and record any protected birds in the area of operation and to identify any active nests within 300 feet (500 feet for raptors) of the trees proposed to be pruned.

5.2.2 If during the breeding/nesting season it cannot be determined from the ground whether a nest is active, the qualified biologist will make a close-range observation of each nest to determine whether the nest is an active nest; that is, whether there are eggs in the nest and/or whether nest maintenance has taken place. Photographs of nests will be taken from above, as near to vertical as possible. Nests should be accessed by using a cherry picker or a boom truck.

5.2.3 After inspecting all trees for active nests in the specific area scheduled for pruning activities under Section 5.2.1, the qualified biologist shall identify those trees containing active nests with caution tape, flags, ribbons or stakes. The Department shall instruct the tree pruning contractor to avoid disturbing all marked trees during scheduled pruning activities.

**5.2.4 The tree pruning contractor should begin pruning operations within three to four (3-4) days of the qualified biologist's survey.**

**5.2.5 Pruning or removal activities within 300 feet of a tree with an active nest (500 feet in the case of an active raptor nest) must be performed with hand tools. If pruning activities cannot be accomplished with hand tools, the servicing of these trees must be postponed until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting.**

**5.2.6 In the event the tree pruning contractor discovers an active nest (eggs, nest construction, other evidence of breeding) not previously identified by the qualified biologist, the contractor shall immediately cease all pruning activities in that area of operation, and shall immediately notify the Department. Thereafter, the qualified biologist must perform a re-inspection of the tree containing an active nest following the procedures described in this policy to continue the tree pruning activities.**

**5.2.7 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.**

**5.2.8 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Department shall develop a tree replacement planting plan for all trees to be removed, which plan should include the location, tree type, tree size, and planting specifications and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years.**

### **5.3 Health and Safety Issues & Emergencies**

**5.3.1 The Department, in consultation with a certified arborist and qualified biologist or public health official, as necessary, shall determine if an immediate or imminent health and safety issue exists as described in the definitions above. The Department shall be proactive in identifying any tree related health and safety issue as early as possible during the non-breeding/non-nesting season in order to avoid habitat disturbances during the breeding/nesting season.**

- 5.3.2 Nesting or non-nesting trees posing an immediate or imminent health or safety issue should be pruned/removed immediately regardless of the presence of nest(s).**
- 5.3.3 If the location or change in the condition of a nesting tree located on property operated and maintained by the County presents an immediate or imminent health and safety issue as described in the definitions above, the Department shall submit a special permit application, as soon as possible, to the USFWS (see 3.4 above, Special Purpose Permits - U.S Code of Federal Regulations, Title 50, § 21.27) and notify CDFG, and the Executive Director of the CCC, as soon as possible, while proceeding, as necessary, with nesting tree removal or other remedies. When possible the Department shall submit a special permit application and notify above agencies prior to tree removal or other remedies**
- 5.3.4 The Department shall photograph the health and/or safety issue site conditions before and after the remedy(s) and document the impacts to the nesting tree (i.e. number of nests, eggs, and/or chicks lost) and adjacent biological resources. The photographs and report shall be available for public agency inspection.**
- 5.3.5 Steps shall be taken to ensure that tree pruning or removal will be the minimum necessary, as determined by an arborist or qualified biologist, to address the health and safety issue while avoiding or minimizing impacts to nesting birds and their habitat. Steps taken shall include the use of non-mechanized, hand tools whenever the emergency occurs within 300 feet of a nesting tree.**
- 5.3.6 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.**
- 5.3.7 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Department shall develop a tree replacement planting plan for all trees to be removed, which plan should include the location, tree type, tree size, and planting specifications and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years.**



## **Suggested Modification 34**

On page 5-11, under *Tree management Policies*, add the following Tree pruning policy for lessees:

### **POLICY NO. 34-- MARINA DEL REY LEASEHOLD TREE PRUNING AND TREE REMOVAL POLICY**

#### **1.0 INTRODUCTION/PURPOSE**

**The purpose of this Policy is:**

**1.1 To establish guidelines within Marina del Rey for the pruning and removal of trees in accordance with the federal Migratory Bird Treaty Act and California Fish and Game Code, and to ensure the long-term protection of breeding, roosting and nesting habitats of federal and state-listed species, California Species of Special Concern, and colonial waterbirds.**

**1.2 To provide Lessees with guidelines and procedures for tree pruning and/or tree removal on leaseholds located in Marina del Rey in consideration of the colonial waterbird species, as the term is defined in Section 4.3 of this policy, and raptor species, as the term is defined in Section 4.12 of this policy, and the desire to reduce or eliminate impacts to their nesting habitats.**

#### **2.0 POLICY**

**This policy will be implemented by the County of Los Angeles Department of Beaches and Harbors (Department) for the purpose of overseeing the tree pruning and/or tree removal activities of Marina del Rey Lessees so as to minimize or avoid impacts to the nesting habitats established by colonial waterbird and raptor species on leasehold property.**

**The Department will enforce and implement this policy in compliance with the Migratory Bird Treaty Act which prohibits the taking, killing or possession of any migratory bird and, therefore, disturbance of any nesting bird is illegal. For clarification purposes, palms are included in any reference herein to trees.**

**Lessees, in following the procedures set forth below, will carry out their tree pruning and/or removal activities in cooperation with the**

Department and only with the explicit authorization of the Department prior to starting such work. Section 5.3 of this policy contains procedures for Lessees or their authorized representatives to follow when addressing immediate or imminent health and safety and emergency situations.

This policy is an outgrowth of Internal Policy No. 23 that has been carried out by the Department since 2003 to manage tree pruning and tree removal activities on County-operated Marina del Rey properties. The Department's Internal Policy No. 23, taken together with the annual surveys of breeding and nesting federal and state listed species, California Species of Special Concern and colonial waterbirds, as outlined in the 2010 Marina del Rey Conservation & Management Plan, will provide the basis for extending management and oversight to Lessee-operated parcels. The surveys shall be conducted by a qualified biologist(s) in Marina del Rey in order to establish the long-term status and trends of these species, especially colonial waterbirds. The survey reports shall include photos of active and inactive nests.

Following completion of the Department's nesting colonial waterbird surveys each year, the Department will identify all leaseholds on which no nests of colonial waterbird or raptor species were found, and Lessees will be notified in writing that tree pruning activities may commence on the identified leaseholds during the non-breeding/non-nesting season.

Lessees are encouraged to utilize the Department's annual nesting colonial waterbird surveys as the basis for part or all of the surveys prepared by Lessee's qualified biologist (as the term is defined in Section 4.11 of this policy), where required by this policy, prior to the commencement of annual tree pruning on Marina del Rey leaseholds.

Lessee is required, under the "Rules and Regulations" provision of Marina del Rey leases, to ensure that all tree pruning and/or tree removal conducted on leaseholds located in Marina del Rey adheres to the guidelines and procedures outlined in this policy statement. Similarly, the policies and procedures contained herein apply to the ongoing maintenance of existing developments and may not be used to substitute for the project and landscaping approvals required by the County of Los Angeles for new development, re-development, or renovations.

Considering Marina del Rey's urban character, its abundance of trees, and the propensity of local herons and egrets to nest in a variety of arboreal settings, the potential will always exist for land-use conflicts to develop in the marina environment. Such conflicts could include health risks (such as co-location with restaurant uses or risks to humans from airborne pathogens), safety risks (such as an unbalanced tree), and substantial interference with public amenities such as public parking or public walkways. In those limited circumstances, appropriate management responses could include pruning of trees during the non-breeding/non-nesting season to make them unsuitable as nesting substrates. Any such "directed pruning" should be done during the non-breeding/non-nesting season which allows the affected birds an opportunity to select among ample nesting trees elsewhere in the nearby area. The annual nesting colonial waterbird surveys to be conducted by the Department or Department contractors are intended to include documentation of any apparent bird-human conflicts and make recommendations for how the conflicts might be resolved in ways that best respond to the Marina del Rey Conservation & Management Plan and normal public health, safety, and public-access consideration.

Department policy requires that all tree pruning and removal conducted in Marina del Rey adhere to the procedures outlined in this document (Policy 34). Tree pruning or removal is prohibited during the breeding/nesting season except to complete tree pruning activities started during the non-breeding/non-nesting season as prescribed in section 5.2 below on trees that annual surveys have shown are not active nesting trees and that have not been active nesting trees in the last five years or in the case of a health and safety emergency.

All tree pruning and removal shall be conducted in strict compliance with this policy. If a Lessee determines that pruning impacts a nest, or removal of a nesting tree is necessary for a reason other than a health and safety issue, a coastal development permit is required.

### 3.0 APPLICABLE STATUTES

#### 3.1 California Fish and Game Code § 3503

"It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto."

**3.2 California Fish and Game Code § 3513**

“It is unlawful to take or possess any migratory non-game bird as designated in the Migratory Bird Treaty Act or any part of such migratory non-game bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act.”

**3.3 Migratory Bird Treaty Act- U.S. Code, Title 16, § 703**

“Unless and except as permitted by regulations made as hereinafter provided, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess . . . any migratory bird, any part, nest, or egg of any such bird. . . included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972[,] and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976.”

**3.4 Special Purpose Permits- U.S Code of Federal Regulations, Title 50, § 21.27**

“Special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, nests, or eggs for any purpose not covered by the standard form permits of this part.” Permit applications are submitted to the U.S. Fish and Wildlife Service’s Regional Office.

**4.0 DEFINITIONS**

**4.1 Active Nest -- A nest that is under construction or that contains eggs or young.**

**4.2 Breeding/Nesting Season -- January 1 through September 30.**

**4.3 Colonial Waterbirds -- Great Blue Heron (*Ardea herodias*), Black-crowned Night-Heron (*Nycticorax nycticorax*), Double-crested**

- Cormorant (*Phalacrocorax auritus*), Great Egret (*Ardea alba*), Snowy Egret (*Egretta thula*).
- 4.4 Department -- Los Angeles County Department of Beaches & Harbors.
- 4.5 Health Issue/Safety Issue – A natural occurrence, disaster, or disease jeopardizing public health or safety and that causes immediate or imminent danger to any person or property. A health and safety danger exists if a tree or branch is dead, diseased, dying or injured and said tree or branch is in immediate or imminent danger of collapse or breaking away. Health risks include proximity of airborne pathogens or animal waste to human habitation or dining facilities.
- 4.6 Nesting tree – A tree as defined in 4.13 below, containing Occupied or Unoccupied nests that have been used in the past five years or supporting evidence of courtship or nest building.
- 4.7 Non-breeding/Non-nesting Season -- October 1 through December 31.
- 4.8 Non-nesting Tree – A Tree, as defined in 4.13 below, containing no nests or containing Unoccupied nests that have not been used in five or more years.
- 4.9 Occupied Nest -- A nest that contains eggs or young.
- 4.10 Pruning -- The horticultural practice of cutting away an unwanted, unnecessary, or unhealthy plant part, used most often on trees, shrubs, hedges, and woody vines. Pruning includes, but is not limited to, 1) eliminating branches that rub each other, 2) removing limbs that interfere with wires, building facades, gutters, roofs, chimneys, or windows, or that obstruct streets or sidewalks, 3) removing dead or weak limbs that pose a hazard or may lead to decay, 4) removing diseased or insect-infested limbs, 5) creating better structure to lessen wind resistance and reduce the potential for storm damage, 6) training young trees, 7) removing limbs damaged by adverse weather conditions, 8) removing branches, or thinning, to increase light penetration, and/or 9) improving the shape or silhouette of the tree
- 4.11 Qualified Biologist -- Graduation from an accredited college with a bachelor or higher degree in biological science or ornithology and at least two (2) years experience conducting nesting bird surveys or an arborist with a bachelor or higher degree in arboriculture and having at least two (2) years experience conducting nesting bird surveys.
- 4.12 Raptor -- Order Falconiformes, which includes eagles, hawks, falcons, and ospreys.
- 4.13 Tree -- A palm or a plant having a permanently woody main stem or trunk, ordinarily growing to a height over eight (8) feet and usually developing branches at some distance from the ground.

## **5.0 PROCEDURE**

**Non-nesting trees on Leasehold parcels that are identified in the Department's annual nesting colonial waterbird survey as having no active Nests nor a history of nesting within five years will be exempt from sections 5.1.1 through 5.1.11 of this policy. Lessees will be notified in writing that tree pruning activities shall be carried out during the non-breeding/non-nesting season.**

**Leasehold parcels that are identified in the Department's annual nesting colonial waterbird survey as having active Nests will be required to follow the procedures contained in sections 5.1.1 through 5.1.11 of this Policy**

**Regardless of the results of the Department's annual nesting colonial waterbird survey, all leasehold parcels proposing to conduct tree pruning or tree removal activities at any time must follow the procedures prescribed by this policy. Written authorization from the Department must be obtained before any action is undertaken that might disturb an active nest.**

### **5.1 Tree Pruning and Removal Restrictions During Non-Breeding/Non-Nesting Season**

**5.1.1 Tree pruning and removal on all leaseholds in Marina del Rey shall be performed during the non-breeding/non-nesting season on all nesting trees and to the greatest extent possible on non-nesting trees..**

**5.1.2 During the non-breeding season, at least fourteen (14) days prior to tree pruning, the Lessee's qualified biologist shall coordinate with the Lessee's landscape contractor and survey the trees to be pruned or removed to detect nests by conducting a ground level visual inspection of the trees scheduled for pruning. The tree survey report shall include a map showing all the trees scheduled for pruning or removal and trees suspected to have active or unoccupied nests. Copies of the survey and map shall be submitted to and filed by the Department for public agency review.**

**5.1.3 Seven (7) days prior to the commencement of tree pruning activities, the Lessee's qualified biologist shall walk the entire area proposed**

for pruning with a pair of binoculars and/or spotting scope to determine whether the juveniles have fledged the nests and to evaluate whether the adults appear to be starting a new clutch (preparing to mate and lay eggs).

5.1.4 Upon complying with procedures described in subsections 5.1.1 through 5.1.3, no less than seven (7) days prior to the planned commencement of tree pruning or removal activities, the Lessee will notify the Department in writing with a copy of the survey report, plot plan and a tree pruning or removal plan prepared by the arborist or landscape contractor which addresses the following:

- a. A description of how work will occur (e.g. mechanized equipment, hand tools, phasing, etc.).
- b. Use of non-mechanized hand tools to the maximum extent feasible.
- c. Tree pruning and/or removal limits established in the field with flagging and stakes or construction fencing.
- d. Assurance that tree pruning will be the minimum necessary to accomplish the respective objectives.

Notification must include the name and credentials of Lessee's qualified biologist. Once the Department receives the tree survey report, plot plan and tree pruning or removal plan, the Department will notify the United States Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG) and the California Coastal Commission (CCC) by submitting by e-mail, within (2) two business days of receipt of Lessee's notice.

5.1.5 Nesting or non-nesting tree(s) that show current evidence of courtship may not be pruned in such a way that compromises the support structure of existing occupied or unoccupied nests. The amount of pruning at any one time shall be limited to preserve the suitability of the nesting tree for breeding and nesting habitat. Under limited circumstances, where a tree(s) is determined to be an health or safety issue, the Lessee, in consultation with a qualified biologist and with the prior approval of the Department, may conduct pruning so as to remove the empty nest and to discourage future nesting, or tree removal as appropriate.

5.1.6 Tree pruning or removal may not proceed if an active nest is found and/or evidence of courtship or nesting behavior is observed, even if it is occurring during the non-breeding/non-nesting season. Tree pruning or removal shall not occur any closer than 300 feet from

- these trees (500 feet in the case of an active raptor nest). In the event that any birds exhibiting breeding and nesting behavior continue to occupy the trees during the non-breeding/non-nesting season, Lessee shall immediately notify the Department and pruning or removal shall not take place until a qualified biologist has re-assessed the site, determined that breeding and nesting has ceased and given approval to proceed within 300 feet of any occupied tree (500 feet for raptor species). Following compliance with procedures described in subsections 5.1.1 through 5.1.3, the Department will notify the USFWS, CDFG, and the Executive Director of the CCC by e-mail within two (2) business days of receiving qualified biologist's determination.
- 5.1.7 Unoccupied nests that have not been used in five or more years may be removed (including those attached to dead palm fronds) only after the Lessee's qualified biologist documents and photographs the occurrence. Copies of the qualified biologist's report and photographs shall be forwarded to the Department within three (3) business days of the removal.
- 5.1.8 In the event that colonial waterbirds are observed to return during the non-breeding/non-nesting season to a nest previously thought to be unoccupied while pruning operations are occurring, activities shall stop until the qualified biologist re-assesses the site. The qualified biologist may recommend proceeding conditionally, consistent with Section 5.2 of this Policy.
- 5.1.9 Special emphasis shall be placed on public safety during pruning operations, particularly when the operation is adjacent to bike paths, parking stalls, sidewalks, driveways or the promenade. Lessee must obtain advance written approval from the Department for the closure of any public promenade or sidewalk necessitated by the tree pruning work.
- 5.1.10 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.
- 5.1.11 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Lessee shall develop and submit to the Department for approval a tree replacement planting plan for all trees to be removed, which should include the location, tree type, tree size, planting specifications, and a monitoring program with specific



performance standards shall be prepared and then updated annually for five years.

**5.2 Tree Trimming and Removal Restrictions During Breeding /Nesting Season or Near Active or Occupied Nests**

**5.2.1 This section addresses non-nesting tree pruning or removal during the breeding/nesting season. Nesting trees must be trimmed during the non-breeding/non-nesting season per section 5.1 above. This section specifically applies to those circumstances where the completion of tree pruning activities started during the non-breeding/non-nesting season extends into the breeding/nesting season. If tree pruning or removal must occur during the breeding/nesting season, the Lessee's qualified biologist will conduct a monitoring program to begin fourteen (14) days prior to commencing activities that have a potential to disturb any nesting tree. During the 14-day monitoring period, the Lessee shall arrange to have its qualified biologist conduct weekly surveys to detect and record any protected birds in the area of operation and to identify any Active Nests within 300 feet (500 feet for raptors) of the trees proposed to be pruned or removed. Monitoring within the thirty (30) day advance monitoring period may include surveys conducted toward the end of the Non-breeding Season.**

**5.2.2 If during the breeding/nesting season it cannot be determined from the ground whether breeding activities have commenced, Lessee's qualified biologist will make a close-range observation of each nest to determine whether the nest is an active nest; that is, whether there are eggs in the nest and/or whether nest maintenance has taken place. Photographs of nests will be taken from above, as near to vertical as possible. Nests should be accessed by a cherry picker or a boom truck.**

**5.2.3 After inspecting all trees for active nests in the specific area scheduled for pruning or removal activities under Section 5.2.1, Lessee's qualified biologist shall identify those trees containing active nests with caution tape, flags, ribbons or stakes. The Lessee shall instruct the contractor to avoid disturbing all marked trees during scheduled pruning activities.**

**5.2.4 Lessee's contractor should begin pruning or removal operations within three to four (3-4) days of receiving authorization from Department.**

**5.2.5 Pruning or removal activities within 300 feet of a tree with an active nest (500 feet in the case of an active raptor nest) must be performed with hand tools. If pruning activities cannot be accomplished with hand tools, the servicing of these trees must be postponed until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting**

**5.2.6 In the event the Lessee's contractor discovers an active nest (eggs, nest construction or other evidence of breeding), not previously identified by Lessee's qualified biologist, the contractor shall immediately cease all pruning activities, and the Lessee shall immediately notify the Department. Thereafter, Lessee must consult with Lessee's qualified biologist to perform a re-inspection of the tree containing an active nest, determine that breeding and nesting has ceased and obtain said biologist's approval to proceed if Lessee desires to continue tree pruning or removal activities.**

**5.2.7 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.**

**5.2.8 Special emphasis shall be placed on public safety during tree pruning or removal operations, particularly when the operation is adjacent to bike paths, parking stalls, sidewalks, driveways, or the promenade.**

**5.2.9 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Department shall develop a tree replacement planting plan for all trees to be removed, which should include the location, tree type, tree size, planting specifications, and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years.**

### **5.3 Health and Safety Issues & Emergencies**

**5.3.1 The Department shall determine if an immediate or imminent health and safety issue exists as described above. Lessees, with supporting documentation from a certified arborist, qualified biologist or public health official, shall notify the Department as soon as a health and safety issue is known. The Lessee shall be proactive in identifying and addressing injured, dying, or diseased trees and alerting the Department as early as possible during the Non-**

Breeding Season in order to avoid habitat disturbances during the nesting season.

5.3.2 Nesting or non-nesting trees posing an immediate or imminent health or safety issue should be pruned/removed immediately regardless of the presence of nest(s).

5.3.3 If the location or change in the condition of a tree located on any leasehold presents an immediate or imminent health and safety issue as described in the definitions above, Lessee shall submit a special permit application, as soon as possible, to the USFWS (see 3.4 above, Special Purpose Permits – U.S. Code of Federal Regulations, Title 50, § 21.27) and notify DCFG, and the Executive Director of the CCC, as soon as possible, while proceeding, as necessary, with tree removal or other remedies. When possible, the Lessee shall submit a special permit application and notify the Department and above agencies prior to tree removal or other remedies.

5.3.4 Lessee shall photograph and document the emergency occurrence, site conditions before and after the occurrence, and any observation of biological resources, and submit to Department a brief written report within fourteen (14) business days. The Department shall create an incident file that shall be available for public agency inspection.

5.3.5 Steps shall be taken to ensure that tree pruning or removal will be the minimum necessary, as determined by an arborist or Lessee's qualified biologist, to address the health and safety issue while avoiding or minimizing impacts to nesting birds and their habitat. Steps taken shall include the use of non-mechanized, hand tools whenever the emergency occurs within 300 feet of a nesting tree.

5.3.6 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.

5.3.7 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. Lessee is required to develop a tree replacement planting plan for all trees to be removed, which plan should include the location, tree type, tree size, and planting specifications and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years. The Lessee's annual monitoring report must

**be submitted to the Department prior to the start of each successive breeding/nesting season.**

### **Suggested Modification 35**

On page 5-12, under *Management Policies for Crows and Other Omnivores*, modify as follows:

The ~~CMP provides the~~ following standards ~~guidance~~ shall apply to the County and other land managers/leaseholders in Marina del Rey to help reduce predation pressure upon native wildlife populations from American Crows and other omnivores currently thriving in the local area:

1. Crows prefer to nest in trees, so discouraging tree-planting **beyond requirements for tree replacement mitigation pursuant to policies 23 and 34** would help reduce numbers over time.
2. Crows are scavengers, especially of garbage cans, so restricting trash cans to the covered type and ensuring prompt servicing during periods of heaviest use (such as over weekends, especially during summer) would help to reduce numbers of crows, rats, and other scavengers.
3. Restaurants should be required to maintain covered, well-functioning dumpsters that discourage crows, rats, and other scavengers.
4. The County should consider similar measures on beaches adjacent to Marina del Rey (e.g., Venice and Dockweiler) as well as trash-reduction policies for Ballona Creek, where large numbers of crows congregate.
5. Crows, like Raccoons, frequently “wash” their food, and they often use irrigation runoff in gutters to do so. This attractant could be mitigated by reducing irrigation, where possible, by replacing tropical plants with drought-tolerant landscaping.

### **Suggested Modification 36**

On page 5-13, under *Waterbird Management Policies*,

The County ~~will intends to~~ conduct waterbird population surveys on an annual basis, in order to track the status of colonies and to provide current information on the locations of active nests to the public, the County, resource agencies, and other regulators.

The County will also conduct periodic nesting colonial waterbird surveys (e.g., every 3–5 years) throughout the coastal slope of Los Angeles County to establish a regional context for the Marina del Rey colonies as funding permits. For

example, the Snowy Egret is known to breed in fewer than five locations on the coastal slope of Los Angeles County, with Marina del Rey supporting one of the larger colonies. Should this continue to be the case, special care should be taken around the marina's Snowy Egret colonies, to help preclude a regional population decline.

### **Suggested Modification 37**

On page 5-13, modify as follows:

#### **Recommendations for Biological Reports & Construction Monitoring Requirements**

The following measures shall be implemented when construction (new development, re-development, or renovation) is proposed anywhere in Marina del Rey. The requirements for biological reporting are patterned upon Section 4.4.2 of the City of Malibu Local Coastal Program/Local Implementation Plan. The construction monitoring recommendations are patterned upon the conditions of Coastal Development Permit No. 5-08-242, issued by the California Coastal Commission in 2008 for the Oxford Basin low flow diversion project.

#### **Qualified Biologist**

Since trees capable of supporting nesting birds of many species are now established throughout Marina del Rey, many types of construction projects and maintenance in the marina area will have at least some potential to impact nesting birds. Construction within the aquatic habitats of the marina itself (e.g., in tidal basins) also entails potential impacts to biological resources, mainly in the form of potential water-quality impairment and potential impacts to foraging waterbirds. Thus, in most cases, the project proponent shall be required to retain a biological consultant with appropriate credentials to participate in the planning and monitoring of construction projects in Marina del Rey. Qualified biologists retained for this purpose must be familiar with the CMP and LUP, and possess a working knowledge of the County's other important resource protection policies.

#### **Biological Reports**

Applications for new development, re-development, and renovations on property where the initial site inventory indicates the potential presence of colonial waterbirds, sensitive species, or sensitive habitat shall include a detailed biological study of the site, prepared by a qualified biologist or other resource expert. At minimum, the biological report shall include the following elements:

1. A study identifying biological resources, both existing on the site and with potential to occur. The biological study should focus on species identified in Table 3–5 of the CMP (Bird Species of Conservation Concern in Marina del Rey & Surroundings), on colonial waterbirds, and bats. In the absence of standard protocols, at a minimum, the area should be surveyed for two hours between dawn and 10:00 a.m. on five occasions with at least one week between surveys. If there is appropriate habitat for owls on site, at least one nocturnal survey should be conducted.
2. It is unknown at this time whether any bats roost or reproduce in Marina del Rey. Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment (Fish and Game Code Section 4150, California Code of Regulations, Section 251.1). It is recommended by CDFG that disturbances to bridge structures, tree cavities, and other potential bat nursery and roosting habitats be avoided between March 1 and September 15 to avoid the breeding season for bats. If disturbance of any bridges, or trees large enough to have cavities or exfoliating bark, is proposed during the bat breeding season, a recognized bat specialist shall conduct a preconstruction survey.
3. Photographs of the site.
4. A discussion of the physical characteristics of the site, including, but not limited to, topography, soil types, microclimate, and wildlife use.
5. Consideration of whether project implementation could affect any areas under the jurisdiction of the U.S. Army Corps of Engineers (ACOE), California Coastal Commission (CCC), CDFG, and/or Regional Water Quality Control Board. If this is possible, a qualified wetlands specialist should be consulted to evaluate the site, conduct a wetland delineation per ACOE and CCC guidelines if necessary, and to coordinate with the relevant agencies to ensure compliance with all applicable federal and state permitting requirements.
6. A map depicting the location of plant communities and other biological resources.
7. An identification of rare, threatened, or endangered species, that are designated or are candidates for listing under State or federal law, an identification of “fully protected” species and/or “species of special concern,” and identification of any other species for which there is compelling evidence of rarity, for example, plants designated “List 1B” or “List 2” by the California Native Plant Society, that are present or expected on the project site.
8. An analysis of the potential impacts of the proposed development on the identified habitat or species.
9. An analysis of any unauthorized development, including grading or vegetation removal that may have contributed to the degradation or elimination of habitat area or species that would otherwise be present on the site in a healthy condition.

10. Project alternatives designed to avoid and minimize impacts to sensitive resources.
11. Mitigation measures that would minimize or mitigate residual impacts that cannot be avoided through project alternatives.

#### Construction Timing

Since many types of projects will have potential to impact nesting birds, it is generally recommended that aspects of the project that have the greatest potential for such impacts be implemented during the “non-breeding season,” which in the local area is between **October 1** ~~September 1~~ and **December 31** ~~November 30~~. This term cannot be taken literally in all cases since, for example, hummingbirds nest year-round and Great Blue Herons may exhibit breeding behaviors at virtually any time of the year. The bat breeding season is considered by CDFG to extend through September 15, although it is not known whether any bats actually breed in Marina del Rey. Nevertheless, the potential for substantial impacts is reduced during the specified period. If construction activities must take place near waterbird nesting sites during the nesting period, it is preferable that such impacts take place toward the end of nesting rather than toward the beginning, since waterbirds are more likely to abandon nests early in the nesting cycle.

#### Construction Near Waterbird or Raptor Nesting Sites

TypicallyWhere applicable, the project biologist should conduct an initial reconnaissance survey to determine whether any active waterbird or raptor nesting sites exist within 300 **to 500** feet, **respectively**, of proposed construction activities. The survey should include inspection of the ground for the guano stains typically present below waterbird nesting sites, but also careful inspections of all trees where nests might be placed.

If an active waterbird or raptor nest is found within 300 **or 500** feet, **respectively**, of construction, the following measures are recommended:

1. The project biologist ~~should~~ **shall** either possess noise-monitoring equipment or work in conjunction with a noise-monitoring consultant to measure noise levels at active nesting sites.
2. The project biologist/noise monitor ~~should~~ **shall** be present at all weekly construction meetings and during all activities with potential to generate noise over a threshold of 85 dB at any nest site. This includes such activities as hardscape demolition, pile-driving, and the use of chainsaws. The purpose of monitoring should be to ensure that nesting birds are not disturbed by construction related noise. Thus, the monitor ~~should~~ **shall** watch for any behaviors associated with noise disturbance, including flushing or other

startle movements, changes in foraging or reproductive rituals, interrupted feeding of young, or nest abandonment. If any such behaviors are observed, the monitor shall have the authority to stop work immediately so that measures may be taken to avoid any further disturbance.

3. ~~As a guideline,~~ Noise levels from construction, measured at the nest, ~~should~~ **shall** not exceed 85 dB. Monitoring should be especially careful and intensive, and observations should be recorded in detail, when noise levels approach this level. Nevertheless, given that levels in excess of 100 dB have been recorded at heron and egret nests near Oxford Basin with no apparent adverse effects (Chambers Group 2008), there is no empirical evidence proving that 85 dB is a valid threshold above which birds nesting in an urban environment experience substantial disturbance. Still, the burden of proof ~~should~~ **shall** be placed upon the project proponent to demonstrate that a higher noise level can be safely tolerated. If constant, detailed monitoring of noise levels above 85 dB demonstrates that the birds show no evidence of being disturbed, construction ~~shall~~ ~~should~~ be allowed to continue. In such cases, the final monitoring report ~~shall~~ ~~should~~ contain relevant details about (a) the types, intensities, and duration of noises the birds were subjected to, (b) any observations of stress behaviors in response to noises or other disturbances, and (c) the nesting success of those birds *relative to other birds in the nearby area that were not subjected to the same elevated levels of construction noise*. If it turns out that birds subjected to elevated noise levels appear to possibly experience reduced nesting success despite a general lack of evident stress behaviors, the project proponent shall not be subject to any penalties, but the monitoring results ~~shall~~ ~~should~~ be incorporated into a revised construction monitoring policy that takes these important results into account. Without detailed monitoring of this nature, the actual thresholds that substantially disturb different nesting bird species at urban locations such as Marina del Rey may never be known.
4. If stress behaviors are observed from nesting birds in response to any construction activity, the project biologist shall be authorized to call for the implementation of such mitigation measures as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing or eliminating the use of back-up alarms. If these sound mitigation measures do not reduce noise levels enough to eliminate the observed stress behaviors, construction within 300 feet (500 feet for raptors) of the nesting trees shall cease and shall not recommence until either new sound mitigation can be employed or until nesting is complete. To the extent possible, the biologist's monitoring report shall specify the sound levels at the nest at which the birds demonstrated stress behaviors.
5. Construction staging areas or equipment shall not be located under any nesting trees.
6. Construction employees shall be prohibited from bringing pets (e.g., dogs and cats) to the construction site.



7. Any lights used during construction shall be shielded downward.
8. Although these policies refer specifically to waterbirds and raptors (because they tend to be most sensitive to disturbance), virtually all native birds are legally protected from disturbance while actively nesting. Therefore, the biological monitor ~~shall~~ ~~should~~ take all necessary steps to ensure that no native bird species are disturbed by construction activities.

#### Additional Controls on Construction Impacts

The project proponent shall not be allowed to discharge silt or debris into coastal waters. Pursuant to this requirement, project plans ~~shall~~ ~~should~~ specify measures to minimize construction impacts. Plans shall include the following specifications, as applicable:

1. Delineation of the areas to be disturbed by grading or construction activities, including any temporary trenches, staging, and stockpile areas.
2. Best Management Practices as part of a written plan designed to control dust, concrete, demolition pavement, or pipe removed during construction, and/ or construction materials, and standards for interim control and for clean up. All sediment waste and debris ~~shall~~ ~~should~~ be retained on-site unless removed to an appropriate dumping location approved to receive fill.
3. Plans to monitor, contain, and clean/remediate oil or fuel leaks from vehicles or equipment.
4. Temporary erosion control measures to be employed ~~if~~ ~~should~~ grading or site preparation cease for a period of more than 30 days, including but are not limited to (a) filling or covering all holes in roadways such that traffic can continue to pass over disturbed areas; (b) stabilization of all stockpiled fill, disturbed soils, and trenches with shoring, sand bag barriers, silt fencing; (c) temporary drains and swales and sediment basins. These temporary measures ~~shall~~ ~~should~~ be monitored and maintained at least on a weekly basis until grading or construction operations resume.

Prior to commencement of construction, the project proponent ~~shall~~ ~~should~~ provide for the County's review and approval final plans and plan notes that conform to the County's requirements. Work ~~shall~~ ~~should~~ not be permitted to commence until the County approves the plans in writing.

#### Proposed Approach to Evaluating Land use Conflicts

Currently, conflicts between nesting colonial waterbirds and designated land uses are relatively benign at all but one of the primary waterbird nesting colonies in Marina del Rey (the colony near Villa Venetia).

In parks and park-like settings, such as **Yvonne B. Burke, and** Burton W. Chace Park or around the parking lot near Oxford Basin, nesting waterbirds will ~~generally not be disturbed~~ ~~allowed to continue their activities unmolested~~, except as future **permitted** native habitat restoration **and tree pruning and removal, as directed by policies 23 and 34**, ~~normal maintenance require that allow the pruning and removal~~ ~~reduction~~ of non-nesting trees (to be done outside the breeding season).

In many cases, birds are causing only minor conflicts with a designated land use. For example, at the lightly-used parking lot along Admiralty Way near Oxford Basin, an appropriate response to the occupation of two large trees may be to temporarily designate limited “no-parking” zones beneath those trees and to identify alternate parking spaces elsewhere in the Marina, as needed (rather than to remove the trees outright, unless this is being done as part of native habitat restoration, for example). In the future, it could make sense to reconfigure the parking lots adjacent to Oxford Basin and Yvonne B. Burke Park, relocating the parking lots away from Oxford Basin and establishing passive parkland in the area closer to the Basin that is compatible for waterbird nesting and wildlife values of a restored Basin.

The only current land use conflict that appears to be highly problematic is at the Villa Venetia colony, where guanotrophy has killed one nesting tree and nearly killed the other two (creating a potential public safety hazard), and where constant deposition of guano has caused a small parking lot to be almost completely unusable by residents and Coast Guard employees while also creating a potential health risk from psittacosis. The remaining cypress trees at this location are in very poor health. The County has not made a final determination as to their disposition at this time.

Considering Marina del Rey’s urban character, its abundance of trees, and the propensity of local herons and egrets to nest in a variety of arboreal settings, it can be expected that the potential will always exist for problematic land-use conflicts to develop in the marina environment. Such conflicts could include health risks (such as co-location with restaurant uses or risks to humans from airborne pathogens), safety risks (such as an unbalanced tree), and substantial interference with public amenities such as public parking or public walkways. In those limited circumstances, appropriate management responses could include pruning of trees during the non-breeding season to make them unsuitable as nesting substrates. Any such “directed pruning” should be done during the non-breeding season and in compliance with ~~the existing (2006) tree-pruning and removal policies 23 and 34~~, which allows the affected birds an opportunity to select among ample nesting trees elsewhere in the nearby area, as has already been documented with respect to guanotrophy and subsequent dereliction of cypress trees at Parcel 64. ~~We expect that~~ **We expect that a**Annual monitoring

of the marina's nesting colonies recommended in this plan would include documentation of any apparent bird-human conflicts and recommendations for how they might be resolved in ways that best respond to both the goals of the LCP as well as normal public health, safety, and public-access considerations.

### **Suggested Modification 38**

On Page 5-5, under *Policies and Actions*, add the following:

#### **Bird-Safe Buildings Policies:**

- **All new buildings, and major renovations of existing buildings, shall be required to provide bird-safe building facade treatments in order to reduce potential for bird strikes.**
- **Landscaped areas next to buildings, including patios and interior courtyards, shall be designed and sited to avoid or minimize bird-strike hazards caused by reflective building surfaces.**
- **Buildings shall be designed to use minimal external lighting (limited to pedestrian safety needs) and to minimize direct upward light, spill light, glare and artificial night sky glow. Buildings shall also be designed to minimize light pollution from interior lighting to the maximum feasible extent.**

## **Land Use Plan**

### **Suggested Modification 39**

On page 8-15, the new *Seniors Facilities* land use category should be modified as follows:

o Seniors Accommodations: A specialized use for the housing of persons over age 62 who may or may not be retired. Units shall contain no more than two bedrooms and shall not provide a kitchen. However, communal dining facilities shall be available on-site. Mixed use services provided on-site for residents may include, but are not limited to, one or more of the following: concierge, dry cleaners, laundry, hair and beauty salon, spa (excluding massage), recreation room, lounge, shuttle/limousine, travel, maid, linen, and other similar personal services. The accommodations may be rented or leased on a monthly or yearly

basis. Units within a Seniors Accommodations facility are not considered residential uses for purposes of allocating dwelling units, assessing affordable housing requirements, or assessing transient occupancy taxes or fees. A height limit of 75 feet from finished floor, not including rooftop appurtenances, is permitted. This use is limited to Parcel 147 (Formerly Parcel OT).

#### **Suggested Modification 40**

On page 8-16, *Open Space* land use category should be modified as follows:

**Open Space:** Permitting recreational uses including open viewing areas, promenades, bikeways, beaches, parks, picnic facilities, nature/interpretive centers, associated surface parking and landscaping. Height limit of 25 feet, except for public facility buildings supportive of Chace Park where a maximum height limit of 45 feet would apply.

#### **Suggested Modification 41**

On page 8-20, Figure 3: DEVELOPMENT POTENTIAL SUMMARY BY DEVELOPMENT ZONE, should be modified as follows:

Dev Zone	D.U.	Gov't Office (sq ft)	Hotel Rooms	Vis-Serv Comm (sq ft)	Active Senior Units	Congregate Care Units	Library (sq ft)	Rest. Seats	Dry Stack Spaces	Office (sq ft)
D Z 1	<del>1498</del> <b>1384</b>	0	288	53 000	0	15	0	340	0	0
D Z 2	<del>72</del>	0	<del>217</del> <b>331</b>	42 000	114	0	0	410	0	0
<u>D Z 3</u>	<u>255</u>	<u>26,000</u>	<u>0</u>	<u>178,741</u>	<u>0</u>	<u>0</u>	<u>3,000</u>	<u>573</u>	<u>345</u>	<u>32,000</u>
<b>TOTAL</b>	<del>1825</del> <b>1711</b>	26,000	<del>505</del> <b>619</b>	273,741	114	15	3,000	1,323	<b>345</b>	<b>32,000</b>

### **Suggested Modification 42**

On page 8-21, C3. Marquesas Area DZ ~~See Map 14~~ add the following note:

Development on Parcel 10 and 14 shall be limited to a maximum height of 75 feet.

### **Suggested Modification 43**

On page 8-25, C8. Mindanao Area

Add to list of Parcels: 45

Under Principal Permitted Use by Parcel—

Add: WOZ Parcel 45 - Open Space  
- Water

Modify: WOZ Parcel 49R -Boat Storage ~~Visitor-serving Commercial~~

WOZ Parcel 49S -Boat Storage ~~Visitor-serving Commercial~~  
-Water

Modify: WOZ Parcel 77 ~~-Boat Storage~~ Open Space/Public Facility  
-Water

## **Coastal Visual Resources**

### **Suggested Modification 44**

On page 9-7, modify as follows:

- 8. Height Design Flexibility for Waterfront Parcels.** Any project design for any parcel on the seaward side of a public access road may apply for flexible height standards above the maximum allowable height in exchange for providing increased view corridors in excess of the minimum requirement of 20 percent, as provided for below:

- a) Mole Roads Optional Height Areas. Structures proposed on parcels where a 45-foot standard applies and located between a mole road and the bulkhead may be allowed up to a maximum height of 75 feet when a 40 percent view corridor is provided. ~~Mole roads are only Tahiti Way, Marquesas Way, Panay Way, Bali Way~~

~~and Mindanao Way.~~ Height above 45 feet shall be permitted at the ratio of 1.5 feet of additional height for every additional 1 percent of view corridor provided in excess of the 20 percent minimum standard. This policy is applicable on the following mole roads; Panay Way, Marquesas Way, Tahiti Way, Bali Way and, Mindanao Way, ~~Fiji Way~~, and the mole portion of ~~P~~parcel 132. This policy shall not apply to that portion of the Parcel 132 mole seaward of the cul-de-sac, where a 45-foot maximum height standard applies.

## Hazard Areas

### Suggested Modification 45

Add the following to e. *Policies and Actions*, page 10-15:

On page 10-14 add the following Sea Level Rise discussion to 10.c. – *Assessment of Geologic Hazards*:

#### Sea Level Rise

Sea level rise as a result of global climate change is anticipated to increase significantly over the next over 100 years.

Recent calculations and observations suggest that future ice-sheet contributions to sea level rise could be about 32 inches (80 cm) by 2100 and no more than 6.5 feet (2 meters) (Pfeffer 2008). Other estimates based on the semi-empirical method of quantifying the relationship between temperature and sea level rate project an increase of 12 inches to 71 inches (30-180 cm) by 2100, using 1990 as a baseline (Rahmstorf 2007; Vermeer and Rahmstorf 2009; Grinsted et al. 2009). These all exceed the upper estimate of 23 inches (60 cm) sea level rise suggested by the IPCC for the business-as-usual scenario (Nicholls and Cazanave 2010).

The long-term (1923 to 2006) tide records for Los Angeles show a trend in sea level rise of 0.83 +/-0.27 mm/yr (0.27 +/-0.09 ft/century). Tide records for the past decade have shown a seasonal signal for water level changes, but little if any interannual sea level rise. Researchers speculate that the Pacific Decadal Oscillation (PDO) has dropped water levels along the eastern Pacific, and this regional effect has temporarily countered or dampened the global signal of sea level rise. If this hypothesis is correct, as the PDO again shifts basin-wide water toward the eastern Pacific, the dampening of sea level rise will reduce, and soon the shift will augment the sea level along the California coast. (Bromirski et al. 2011)

Executive Order S-08-13 directed the Ocean Protection Council to initiate a study by the National Academy of Science (NAS) to provide regional guidance for projections of sea level rise. This study is expected to be completed in the spring of 2012. Until the NAS is completed, the Ocean Protection Council (OPC) has provided Interim Guidance for Sea level Rise. The sea level rise estimates provided in the OPC report are shown in the table below..

Sea Level Rise Projections using 2000 as the Baseline

<u>Year</u>		<u>Average of models</u>	<u>Range of models</u>
<u>2030</u>		<u>7 in (18 cm)</u>	<u>5-8 in (13-21 cm)</u>
<u>2050</u>		<u>14 in (36 cm)</u>	<u>10-17 in (26-43 cm)</u>
<u>2070</u>	<u>Low</u>	<u>23 in (59 cm)</u>	<u>17-27 in (43-70 in)</u>
	<u>Medium</u>	<u>24 in (62 cm)</u>	<u>18-29 in (46-74 cm)</u>
	<u>High</u>	<u>27 in (69 cm)</u>	<u>20-32 in (51-81 cm)</u>
<u>2100</u>	<u>Low</u>	<u>40 in (101 cm)</u>	<u>31-50 in (78-128 cm)</u>
	<u>Medium</u>	<u>47 cm (121 cm)</u>	<u>37-60 in (95-152 cm)</u>
	<u>High</u>	<u>55 in (140 cm)</u>	<u>43-69 in (110-176 cm)</u>

There are uncertainties surrounding future greenhouse gas emissions, vertical land movement measurements, past rates of sea level change, and future contributions to SLR from the Greenland and Antarctica. Given the uncertainties associated with future sea level rise, there are no probabilities assigned to these estimates.

Data on recent ice-sheet melt and the current trajectory of global greenhouse gas emissions suggests that sea level rise will be greater than projections (Rahmstorff 2010). The very low scenarios likely under represent future sea level rise and climate scientists recommend using the medium and high scenarios for planning.

In addition, the combined effects of chronic sea level rise resulting from climate change and episodic storm surge, unusually high tides, and tsunamis should be considered. Sea level rise is expected to lead to the following impacts that could have serious negative consequences for marine environments and intensify existing shoreline management challenges:

- Permanent or periodic inundation of low-lying areas;
- Increase in coastal flooding during extreme storms and high tides;
- Increase in erosion rates and shoreline recession in erosion-prone areas;
- Inward migration and loss of coastal wetlands;
- Erosion of some barrier dunes, exposing previously protected areas to flooding;

- Saltwater intrusion into storm water systems and aquifers (Heberger et al. 2009).

The specific impacts of sea level rise along the California coast and at Marina Del Rey will depend on the characteristics of the shoreline, geomorphology and land use patterns. In many cases, the main threat from sea level rise results from the impacts of increased potential for inundation and erosion. Local sea level rise trends should continue to be monitored closely in the future.

#### **Suggested Modification 46**

On Page 10-15 add the following discussion to *10d. - Findings*:

Marina Del Rey plans, designs, and builds infrastructure with a lifespan that will be impacted by future sea level conditions. The main areas of Marina Del Rey that will be at risk from sea level rise are the harbor and the ocean shoreline. It is important that land-use decisions and project designs consider projected sea level rise and incorporate design features that build capacity to withstand or respond to these conditions whenever practicable.

#### **Suggested Modification 47**

On Page 10-15 add following policies to *10e. Policies and Actions*:

4. New Development shall be sited and designed to ensure that it is not adversely affected by impacts from climate change, including the potential impacts from continued and accelerated sea level rise over the expected design life of the new development.

5. Applications for coastal development permits for major development shall include a report prepared by a certified civil engineer describing the hazards to the area from continued and accelerated sea level rise. Siting and design of new major shoreline development anywhere in Marina del Rey Harbor and the siting and design of new or replacement shoreline protective devices shall take into account anticipated future changes in sea level, based on the best available scientific information and projections or range of projections of future sea level. Replacement of a structure refers to more than 50% of the cumulative repair and maintenance. Due to the uncertainties about future sea level rise, a range of likely and extreme rises in sea level shall be used in the planning and permitting of development to assess project sensitivity to future water levels, identify possible adverse consequences to the development and



- the surrounding area if the anticipated sea level is exceeded, and determine the minimum acceptable amount of future sea level rise that can be used for design purposes.
6. If the major development site is at risk, then the lease should disclose that the land is subject to extraordinary hazards posed by future sea level rise, which may also increase the risks posed by coastal erosion, storm surge and inundation.
7. Los Angeles County should study the potential impacts of continued and accelerated sea level rise and flooding of water ways on the existing or proposed structures within all development zones, including impacts to development zones, traffic flow, public access, natural areas and water quality. The County should delineate low lying areas which may be inundated by tsunamis, floods or unusually high tides and/or may be damaged by excessive wave action, and changes to inundation and high damage areas due to continued and accelerated sea level rise
8. Periodically review tsunami preparation and response policies/practices to reflect current and predicted future sea level trends, development conditions, and available tools and information for preparedness and response.

## 11. Circulation

### Suggested Modification 48

On page 11-25, under Funding of Transportation Improvements, add:

- 6. An annual report on the amount and expenditures of the Transportation Improvement Fund shall be submitted to the Department of Regional Planning and a copy submitted to the Executive Director.**

## **IV. IMPLEMENTATION PLAN SUGGESTED MODIFICATIONS**

### **A. Map Changes**

#### **Suggested Modification 49**

Map 14, *Parcel Development Height Limits*, change Parcel 10 height limit to 75 feet

#### **Suggested Modification 50**

County shall reconcile all maps consistent with the Suggested Modifications.

### **B. Ordinance Changes**

#### **Suggested Modification 51**

Section 22.46.1550 B., *primary uses*, page 65, add:

**Boathouses, boat racks and oarboxes for Parcel NR and IR**

#### **Suggested Modification 52**

Section 22.46.1650 Open Space-- Development Standards, add:

**Public facilities and buildings supportive of Chace Park and Marina Beach are allowed with a maximum height limit of 45 feet.**

#### **Suggested Modification 53**

Section 22.46.1789, page 75, add footnote pertaining to 255 residential units in Development Zone 3:

**Notwithstanding any other provision to the contrary, these dwelling units may only be used on Parcel 64 in Development Zone 3, converted to a higher priority use in Development Zone 3, or transferred to another Development Zone via LCP amendment.**

#### **Suggested Modification 54**

Section 22.46.1810 (notes following table), page 79:

**Parcel 9 wetland park - In order to maximize wildlife values no trails or gathering areas (such as picnic tables, pavilions, etc.) shall be allowed in the wetland park between the Parcel 8 parking lot and the wetland, or on the marina side of the wetland.**

#### **Suggested Modification 55**

Section 22.46.1810 (notes following table), page 79:

**The developer (or responsible lessee) of Parcel 9 FF(14) shall pay ½ of the cost for the restoration of the wetland and creation of an approximately 1.5 acre wetland park on Parcel 9, as well as transient slip accommodations on Parcel 9 for 9-11 boats.**

#### **Suggested Modification 56**

Section 22.46.1820, page 79, add:

**Prior to issuance of a building permit for the project, the permittee shall, to the satisfaction of the Directors of Regional Planning and Beaches & Harbors, pay monies into the Coastal Improvement Fund (specified in section 22.46.1950 of the County Code) in the amount necessary to fund 50 percent of the design, permitting and construction of a public wetland and upland park on the southerly approximately 1.46-acres of Marina Parcel 9U. The first to obtain a building permit of the permittees of the subject project and the hotel resort project on Parcel 9U shall construct such public wetland and upland park and shall be entitled to reimbursement of 50 percent of the design, permitting and construction cost by the County. If such park is not developed by the permittee of the hotel resort, the subject permittee may enter onto Parcel 9U to perform such construction work. Development of said public wetland and upland park on the southerly portion of Parcel 9U shall be completed and the park shall be open to the public in advance of issuance of a Final Certificate of Occupancy for the subject approved apartment building on Parcel 10 FF(14).**

### **Suggested Modification 57**

Section 22.46.1820, page 79, add to notes following table:

-- Parcel 10 (nonmole portion) ~~Height category 5: Building height not to exceed 440 feet, unless an expanded view corridor is provided in accordance with Section 22.46.1060 in which case the height shall not exceed a maximum of 225 feet.~~ **a maximum of 75 feet,**

### **Suggested Modification 58**

Section 22.46.1820, page 79, add to notes following table:

**Parcel 14 –Developer shall deposit into an account designated by the County an amount equal to the cost of replacing 101 parking spaces at Chace Park or at Marina Beach, amount to be determined by the County. The replacement parking spaces shall be available for public use within five (5) years of the issuance of the Certificate of Occupancy for redevelopment of Parcel 14.**

### **Suggested Modification 59**

Section 22.46.1820 (notes following table), page 80

**The developer (or responsible lessee) of Parcel 14 shall pay 1/2 of the cost of the restoration of the wetland and creation of an approximately 1.5 acre wetland park on Parcel 9, and shall also construct at no cost to the County transient docks at Parcel 9 accommodating 9-11 vessels. If Parcel 14 development commences prior to Parcel 9 development, Parcel 14 shall absorb 100% of the costs of the wetland park construction, subject to 50% reimbursement if Parcel 9 develops. The wetland park shall be constructed and open prior to the issuance of the Certificate of Occupancy for Parcel 14.**

### **Suggested Modification 60**

Section 22.46.1850 page 88, add to notes following table for Parcel 147:

**A public walkway with a minimum width of 20 feet, shall be constructed, consistent with County design requirements, on Parcel 147 to connect**

**Washington Boulevard and Admiralty Way at the sole expense of the developer of Parcel 147.**

**Suggested Modification 61**

Section 22.46.1850, page 88, add to notes at the end of the table regarding Parcel 147 and 21:

**In order to ensure the relocation of the existing public parking spaces from Parcel 147 to Parcel 21, prior to the commencement of development of Parcel 147, the lessee of Parcel 21 shall execute necessary documentation acceptable to the County of Los Angeles surrendering approximately 206 linear feet of leasehold, as measured along the water frontage, starting from the northwest corner of Parcel 21, and including the entire depth of the parcel, for a total of approximately 30,900 square feet, to be joined with Parcel GR.**

**Suggested Modification 62**

Section 22.46.1880, page 93 (notes following table), amend language as follows:

**Parcel 49M, 49R and 49S and 77, may be developed as a unit, with a blending of uses within and between the parcels. The launch ramp must be incorporated into any proposed project for these parcels or must be relocated prior to development of the parcels. The current capacity of the launch ramp shall be protected, and ramp and support facilities shall not be combined with other uses that would reduce the capacity or usability of the ramp by the boating public. Any proposal which adds Visitor-Serving/Convenience Commercial uses to these parcels must also add urban open space as required by Section 22.46.1410.E.**

**Suggested Modification 63**

Section 22.46.1880, page 95, add to notes:

**Parcel 52-- Development of a dry stack storage facility shall not extend more than 100 feet seaward of the bulkhead and all associated docks shall not exceed the water lease line.**

## Suggested Modification 64

Section 22.46.1950, page 101:

A. A coastal improvement fund is established to finance construction of local park facilities and non-motorized public boating facilities in the Marina del Rey area. New park and non-motorized public boating facilities will mitigate the impacts of new residential development on the regional recreational resources of the Marina and adjacent beaches. The fund will be generated by charging a fee per unit for new residential units in the existing Marina.

Each subsequent development application to construct new residential units in Marina del Rey shall contribute its calculated share to the coastal improvement fund to provide funds for construction of local park and non-motorized public boating facilities in Marina del Rey. The coastal improvement fund may be used for projects identified in subsection C of this ~~s~~Section.

B. Discussion. Additional residential development will place a burden on the regional recreational resources of the Marina and adjacent areas as new residents utilize these resources to fulfill local recreation needs. Creation and improvement of new park lands ~~and~~ public access areas and non-motorized public boating facilities to serve the new residential population will mitigate the adverse impacts of additional residential development on regional facilities. The coastal improvement fund will provide a mechanism to collect fees to be used for the development of new park ~~and~~ public access, and non-motorized public boating facilities in the existing Marina.

The Specific Plan allocates a total of 2,420 additional dwelling units for the existing Marina. The average occupancy for apartment dwelling units in the Marina del Rey area is 1.5 residents per unit, according to the 1990 Census. Based on these figures, residential development is expected to add 3,630 residents to the existing Marina.

The Los Angeles County General Plan establishes a local park standard of four acres per 1,000 population. Application of this standard against the increased population results in a local park need of 14.5 acres in the existing Marina. These acreages are attributed to the new development only and do not include acreages which are part of the local park space deficit for existing development.

Improvement of ~~Parcel FF as a 2-acre park and improvement of Parcel P as a 10.27-acre open space area with public access will create 120.7 acres of new local park open space and public amenities in the existing Marina, resulting in a 1.8-acre deficit. Improvement of another 1.8-acre site would fulfill the local park need of new development. However, a more feasible alternative is the~~

~~improvement of the 12.7 acres (Parcels FF and P) with amenities equal in value to the cost of improving the entire 14.5 acres. This will mitigate local park needs attributable to new development and is preferable to development of another 1.8 acres site.~~ Additionally, the County intends to add 7.1 acres to Chace Park, bringing the total added open space acreage to 17.8 acres.

Improvement of land for local park space will cost \$100,000.00 per acre **(adjust per CPI)**. This cost includes the improvements identified in subsection (C)(1) C.1 of this sSection. The cost of improvements, therefore, is calculated at the rate of \$100,000.00 **(adjust per CPI)** per acre, yielding a total cost of \$1,450,000.00 for improvement of 14.5 acres in the existing Marina.

The coastal improvement fund fee is determined as follows: \$1,450,000.00 total funds needed spread over 2,420 residential units results in a cost of \$600.00 per dwelling unit.

C. Use of the Fund. The following uses of the coastal improvement fund will be allowed:

...

ADD: **non-motorized public boating facilities**

2. Acreage. Funds accumulated by payment of the coastal improvement fund fee from development in the existing Marina shall be used to construct any of the facilities identified in subsection (C)(1) C.1 of this sSection on 12.7 acres of local park land and public access area in the existing Marina identified in this Specific Plan respectively as Parcel FF and Parcel P.

D. Project Credit. Development projects may be credited from payment of the calculated coastal improvement fund fee at the rate of \$2.30 credit for every square foot of improved public open space provided on-site. Improvements qualifying for credit shall be only those identified in section (C)(1) C.1 of this sSection. A contiguous 500 square feet shall be the minimum size open space area to receive credit under this project credit option.

E. Reimbursement. Fee payments made at the rate established herein shall be subject to partial reimbursement, on a pro rata basis, in the event that ultimate park improvement costs fall below those presently calculated.

...

(C) Use of the Fund. The following uses of the coastal improvement fund will be allowed:

...

ADD: **non-motorized public boating facilities**

#### **Suggested Modification 65**

Section 22.46.1950 A., page 101, add to the end of the first paragraph:

**Notwithstanding the application of this fee to residential units only, Senior Accommodations projects shall *be required to pay this fee.***

#### **Suggested Modification 66**

Sec. 22.46.1950, Coastal Improvement Fund add:

**The Coastal Improvement Fund shall require the applicant to pay \$1,200 per residential unit in such cases where a public parking lot is being replaced by a non priority use such as an apartment complex or senior accommodations facility.**

#### **Suggested Modification 67**

Sec. 22.46.1950, Coastal Improvement Fund, C. Use of the Fund add:

**Non- motorized low cost boating.**

#### **Suggested Modification 68**

Sec. 22.36.1950 Coastal Improvement Fund — Amend the Coastal Improvement Fund fee structure to adjust annually for inflation based on the US Bureau of Labor Statistics Consumer Price Index.

#### **Suggested Modification 69**

Section 22.46.1950 D, page 103, add to end of paragraph:

**No credit shall be given for the walkway required pursuant to Section 22.46.1850 on Parcel 147.**



### **Suggested Modification 70**

Section 22.46.1950 *Coastal Improvement Fund*, add the following monitoring provision, page 104:

**(F) An annual report on the amount and expenditures of the funds in the Coastal Improvement Fund shall be submitted to the Department of Regional Planning and a copy submitted to the Executive Director.**

### **Suggested Modification 71**

Section 22.46.1970 B., page 105, add the following to list of facilities that can be financed by fund:

**Boathouses**  
**Boat racks and oarboxes**  
**Docks for low cost, non-motorized boating**

### **Suggested Modification 72**

Section 22.46.1190 *Conditions of approval*, page 37, add:

**Bird-Safe Buildings Standards. All new buildings, and major renovations of existing buildings, shall be required to provide bird-safe building treatments for the facade, landscaping, and lighting consistent with the guidelines provided below:**

**Glazing treatments:**

- **Fritting, permanent stencils, frosted, non-reflective or angled glass, exterior screens, decorative latticework or grills, physical grids placed on the exterior of glazing, or UV patterns visible to birds shall be used to reduce the amount of untreated glass or glazing to less than thirty-five percent (35%) of the building façade.**
- **Where applicable vertical elements within the treatment pattern should be at least one-quarter inch (1/4") wide at a maximum of spacing of four inches (4") and horizontal elements should be at least one-eighth inch (1/8") wide at a maximum spacing of two inches (2").**
- **No glazing shall have a "Reflectivity Out" coefficient exceeding thirty percent (30%). That is, the fraction of radiant energy that is reflected from glass or glazed surfaces shall not exceed thirty percent (30%).**
- **Equivalent treatments recommended by a qualified biologist may be used if approved by the City and/or the Coastal Commission.**

**Lighting Design:**

- **Nighttime lighting shall be minimized to levels necessary to provide pedestrian security.**
- **Buildings shall be designed to minimize light spillage and maximize light shielding to the maximum feasible extent.**
- **Building lighting shall be shielded and directed downward. Up-lighting is prohibited. Use of “event” searchlights or spotlights shall be prohibited.**
- **Landscape lighting shall be limited to low-intensity and low-wattage lights.**
- **Red lights shall be limited to only that necessary for security and safety warning purposes.**

**Landscaping:**

- **Trees and other vegetation shall be sited so that the plants are not reflected on building surfaces.**
- **In order to obscure reflections, trees and other vegetation planted adjacent to a reflective wall or window shall be planted close to (no further than three feet from) the reflective surface.**
- **For exterior courtyards and recessed areas, building edges shall be clearly defined by using opaque materials or non-reflective glass.**
- **Walkways constructed of clear glass shall be avoided.**

**Building Interiors**

- **Light pollution from interior lighting shall be minimized through the utilization of automated on/off systems and motion detectors.**

**Lights Out for Birds**

- **The County shall encourage building owners and operators to participate in “Lights Out for Birds” programs or similar initiatives by turning off lighting at night, particularly during bird migration periods.**

**Suggested Modification 73**

Section 22.46.1180 A2, page 26 add the following filing requirement:

**Wetland Delineation. Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is**

**poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. (14 CCR Section 13577.)**

#### ***Suggested Modification 74***

Add the following to Appendix G. TRANSPORTATION IMPROVEMENT PROGRAM of the Specific Plan, C. TDM Alternatives:

- **Shared use programs shall be implemented for bicycles and vehicles (e.g., on-site provision of bicycles and zipcars for tenant and employee use).**
- **Commercial property owners shall be encouraged to participate in the South Coast Air Quality Management District's Commute Reduction Program.**

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



November 21, 2011

Richard Bruckner  
Director of Regional Planning  
320 Temple Street  
Los Angeles, CA 90012-3225

Re: Marina del Rey Local Coastal Program (LCP) Major Amendment No. 1-11

Dear Mr. Bruckner:

You are hereby notified that the California Coastal Commission, at its November 3, 2011 meeting, approved County of Los Angeles Marina del Rey LCP Amendment No. 1-11 subject to suggested modifications. These suggested modifications are attached (Attachment A).

Since the Commission approved Marina del Rey LCPA 1-11 with suggested modifications, LCP Amendment No. 1-11 will not be effective for implementation in the County's coastal zone until: 1) the Board of Supervisors adopts the Commission's suggested modifications, 2) the Board of Supervisors forwards the adopted suggested modifications to the Commission by resolution, and, 3) the Executive Director certifies that the County has complied with the Commission's November 3, 2011 action, and 4) the Executive Director reports his determination to the Coastal Commission and the Commission concurs. The Coastal Act requires that the County's adoption of the suggested modifications be completed within six months of the Commission's November 3, 2011 action. However, if need be, this deadline may be extended for good cause. Public Resources Code (PRC) Section 30517 allows the Commission to extend any time limitation established by Chapter 6 of Division 20 of the PRC, wherein lies Sections 30512 and 30514, for up to one year. Such an extension must be scheduled for Commission hearing and the Commission must act on the time extension prior to the six month deadline.

Thank you for your cooperation and we look forward to working with you and your staff in the future. Please call Al Padilla or myself at (562) 590-5071 if you have any questions regarding the modifications required for effective certification of County of Los Angeles Marina del Rey LCP Amendment No. 1-11, Marina del Rey.

Mr. Bruckner  
November 21, 2011  
Page 2 of 2

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary Timm", is written over a light gray rectangular background.

Gary Timm  
District Manager

Attachment: Suggested Modifications

Cc: Michael Tripp, Principal Planner

# ATTACHMENT A